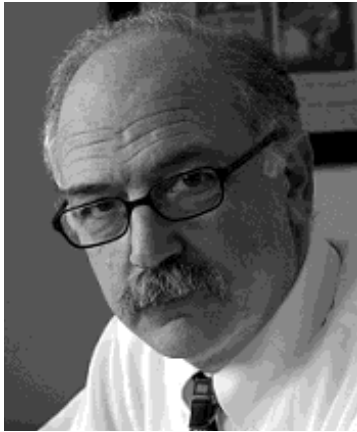


The OPINION

William Mitchell College of Law Student Newspaper

Volume 16, April 2004



Prof. Eric Janus has been named Vice-Dean of Academic Affairs, replacing Vice-Dean Downs. In a time of change for the whole college, *The Opinion* thought it important to introduce the new Dean to students who may not have had the pleasure of taking any classes with Prof. Janus. Congratulations, Dean Janus!

Professor Janus Named as Vice-Dean of Academic Affairs

O: When will you take office?

Prof. Janus: July 1.

O: Will you still teach classes? If so, which classes?

Prof. Janus: I plan to cut down on my teaching. I'll teach one section of Civil Procedure. This is the biggest sacrifice I'll have to make to take this job. Teaching is what I really love.

O: What other duties regarding your new job have you identified?

Prof. Janus: Basically, I'll have responsibility for the academic program at

William Mitchell.

O: Are there any areas that you think need particular attention?

Prof. Janus: I think that we have an excellent and solid program of education. I'll want to work with Dean Easley, the faculty, and students to identify priority areas to build on our excellence. Some ideas I have are working to strengthen and expand our nationally recognized skills and clinic curriculum, seeking to make available to students "capstone" experiences in

their final year of law school, strengthening our two-way communication with students, building on the excellent work of the multicultural affairs office, supporting and encouraging the scholarship of our faculty, and working to communicate the strength and uniqueness of our education and public service work to the broader community. I want to build on the goal of making our efforts education-centered and student-centered.

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By Mickey Tierney

If you weren't there this year folks, you should have been. On March 13th your William Mitchell Fighting Eelpout put forth a spectacular effort out on the ice, leading the hockey team to its fourth consecutive *Res*

Drop the Puck

Ipsa Cup Championship and showing, once again, why our school stands number one, as the Eel Pouts defeated the Pipers of Hamline Law in a rousing match of the law schools. The stage was set as the two teams made their way to the Highland Ice Arena and the fans poured in from around the Twin Cities. Over 200 students showed up between the schools and they were not to be disappointed.

It was a special night as well, as the fans were treated to a glimpse of the future of

the law school. President and Dean of the college Allan Easley came to the game to show his support and drop the ceremonial puck at center ice. The players had warmed up and the crowd was getting anxious when announcer and Mitchell student Andrew Rorvig made the call introducing Dean Easley. The crowd went wild. "It was a rousing affair," the Dean would later say in a press conference held after the game. "It was a pleasure for me to participate and I can't wait to see how

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Dean Janus...

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O: How long have you been involved in legal education?

Prof. Janus: This is my 20th year of full-time law school teaching. I was involved as an adjunct teacher for many of my 11 years in practice.

O: What talents do you think you bring to the job of Dean?

Prof. Janus: I think I'm a good listener and have an ability to focus on what's important and move it forward. I believe passionately in William Mitchell and the kind of legal education we seek to provide. I believe that the

legal profession plays a central role in our democratic society, both as creative problem-solvers, and as vigorous advocates for justice.

O: How do you see the College's current stand in the public interest forum, and how would you like to see that expand?

Prof. Janus: I think that the College does lots of work in the public interest — from the pro bono program, where William Mitchell leads in our commitment, to the work that individual faculty members do in the public interest, to the work we do with high school and college kids to introduce them to the legal profes-

sion, to our public square lecture series. I want to strengthen our effort, and the way in which we communicate about our public service effort.

O: Where will your office be located?

Prof. Janus: I'll be moving into the office Vice Dean Downs now occupies.

O: Will you still be faculty advisor to student groups?

Prof. Janus: As of this time I plan to continue.

O: There have been issues in the past with the grading policies at WM, specifically that the grade curve was too low and didn't allow students to compete with other area law schools, whose grade curve was

higher. Do you have a comment on this?

Prof. Janus: My current thoughts are these. Grading and ranking of students are necessary evils, precisely because of the competitive nature of the job market. Our grading scale ought to be fair not only internally, but also when compared to other schools in the area. That is, students who perform similarly ought to get equivalent grades. At present, I'm not convinced that our standards are out of synch with those of other schools. However, I'm open to contrary evidence.



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At the SBA Bookstore, a consignment bookstore run by the Student Bar Association at William Mitchell College of Law and is open to Hamline and U of M students to buy and consign their old books. We make only 20% of the price of books, definitely a good deal for students. You can consign your books ANYTIME and we're open all year round. Students often save hundreds of dollars! **Credit for Books Sold!** We are proud to offer in-store credit for consignees. You may now apply the proceeds from any books sold towards your next purchase and no more two months of anxious waiting.

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From the Editor

It was pretty hard thinking of what to write for my last editor column in *The Opinion*. What do you write after you've worked so hard on something and then have to give it away? While I'm excited to be graduate—o.k. I'm *freaking ecstatic*—I will miss a few things.

I'll miss all the people I've met as editor. I want to thank all the writers who have contributed over the last two years. It's been great reading your stuff and arguing with you about whether it's good or not. (It's funny how it's the good writers who always worry about that, isn't it?)

Of course, there are a few things I won't miss. Fighting for funding and defending the paper over and over again was never much fun. But it was a great ride, and I want to thank some people.

I especially want to thank Shawn Bakken for being such a prolific writer, never missing an issue and never turning one in late. There's got to be some kind of award in the hereafter for writers like you, peopled by cheering editors.

I also want to thank Sara Dady and Chad Collins for their spirited opinion pieces, and Mike Tierney for those wicked good Eel Pout stories. (Whoo Hoo Eel Pouts!)

Thanks to all the other writers, too. I can read and edit it all, but *The Opinion* would not exist if it weren't for you.

I want to thank our LAYOUT people, Josh and Dawn Warneke. I'm sure dealing with a bunch of law students trying to keep a paper running hasn't been all that fun, but they never complained. They introduced a much more professional looking paper for us, and have kept that going as we moved to an online PDF version this year. Thanks for all your help and, especially, your creativity.

Next year will bring more changes for *The Opinion*. We will cease to be a part of the SBA. We will fund our own existence with ad revenue. We might even be able to pay our writers!

The Opinion's new editor is Carla Magnuson, and I charge you, Carla, to carry on the 45-year history of *The Opinion* as the voice of the students at William Mitchell.

I've had a blast working on this project, dragging it along for two years. It's time to turn it over to someone else and let it go.

In the words of the last Editor-in-Chief of *The Opinion*,

I'm Outta Here!



The OPINION

William Mitchell College of Law Student Newspaper

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The Opinion reserves the right to edit for clarity, space and editorial content.

Please contact the Editor at mkilgus@wmitchell.edu for specific questions or comments.

Parties interested in advertising space should contact Scott Kissinger at skissinger@wmitchell.edu.

Submissions to The Opinion

Articles for the August, 2004 issue of *The Opinion* are due July 15, 2004.

Outgoing Dean to be Keynote Speaker at WM's June Graduation

By Mary Kilgus

Outgoing Dean Harry Haynsworth is slated to give the keynote address at this year's commencement. Commencement will be held June 6 at 2 p.m. at the Xcel Energy Center.

The U's keynote speaker will be Nadine Strossen, the president of the ACLU. She is the first woman president of the nation's oldest and largest civil liberties organization. The U graduates May 15, 2004.

St. Thomas Law School, graduating their first class on May 22, will hear from a visiting cardinal from the Vatican as their keynote speaker. He'll probably talk about how much holier Tommy Law Students are than the rest of us.

Hamline Law School also will hold commencement on May 22. They wanted to keep their commencement speaker a BIG SECRET (*shhhhhhh*) until they released it to the public. We didn't care that much—it's only Hamline High.

The Women of William Mitchell Reception

Women students please join alumnae, faculty, and friends of the college at a reception in conjunction with the Midwest Regional Conference for Women in Law to connect with friends, and network with fellow professionals.

Thursday, April 22, 2004

4:30 – 6 p.m.

*Marriott City Center
Minnesota Room, Sixth Floor*

The reception will be held prior to the conference's keynote speaker, Mara Liaison from National Public Radio, at 6 p.m.

*Please RSVP by contacting the Alumni Office at 651-290-6371
or alumni@wmitchell.edu.*

Transportation arrangements may be made if necessary.



WILLIAM MITCHELL
COLLEGE OF LAW

Charger and Hooders Selected for June Graduation



Professor Knapp (left) is this year's charger, while Professors Sonsteng (center) and Pannier (right) have been chosen as hooders.

By Mary Kilgus

Prof. Knapp will give the charge to the 2004 graduating class on June 6, 2004. In a student vote counted March 31, Prof. Knapp was named to give the charge for the third time in recent memory. When asked, he's not sure exactly how many times he's been asked.

"I'm not sure I know," he said. "I've given the charge at the last two graduations (this January and last June) and I gave the graduation speech at the winter ceremony in 2003. Before that, I've probably given the charge an additional half-dozen times beginning, I think, in 1995 or 1996."

The senior class voted Prof. Knapp in by 24 votes, 5 more than the next contender. The

vote was taken during Senior Summation. Seniors were asked to choose faculty members and turn the vote cards in by March 31, 2004.

In addition, Professors Russell Pannier and John Sonsteng are slated to be the hooders at graduation. Each received the most votes by the senior class in the "hooding" category.


"I take it as a great honor," said Prof. Pannier.

If you're not sure what hooding and charging is, you'll have to come to the graduation at the Xcel Energy Center this June. In the meantime, congratulations to Professors Knapp, Pannier and Sonsteng for the nod by students.



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WILLIAM MITCHELL
COLLEGE OF LAW

Alumni Association 31st Annual

Golf Tournament

Monday, May 24, 2004
12:30 p.m. Shotgun Start
Olympic Hills Golf Club



They Said It!

Laws alone can not secure freedom of expression; in order that every man present his views without penalty there must be spirit of tolerance in the entire population.

- Albert Einstein

Muslim Students Hold Islamic Jurisprudence Week at WM

By Ahmed Teleb

In the arid Middle East, the trail to the watering place was called shari'a. The sanctified order of the universe was called shari'a. The sail that guides a ship on its intended path also comes from the word shari'a. Shari'a has never meant Islamic criminal law.

Mr. Louai Alhaffar began his lecture "Islamic Law: Sources, Foundations and Methodology" by correcting some of the false terminology and dispelling some of the common misconceptions that surrounds his subject. He briefly acknowledged that these days, it has become difficult to talk about Islam in general and the Islamic way of life, shari'a, in particular. But that very difficulty makes it the more crucial that we do.

Fiqh means, roughly, jurisprudence and comprises both rules derived from revelation and developments by legal scholars. Initially, I was

surprised by the analogies to American law—Quran as Constitution, Sunnah (ways of the Prophet) as legislation and commentary, and the particular rulings of the Muslim jurists as case law. I asked myself, "What, in general, are the possible methods of legislative interpretation?" The parallels then became self-evident.

When a new circumstance or development faces a *faqih*, a Muslim legal scholar, he or she may make use of various tools. The process of producing new rulings is called *ijtihad*. *Ijtihadist* methodology involves the following policy tools: Consensus, Analogy, Public Interest, Equity of the Case, Custom, Prophylaxis, as well as Preceding Revealed Law (presumably the Torah and the Bible). Many of the law students present were astonished to find their Western training so comparable to Islam's legal methodology. The speaker pointed out that

this list does not exhaust the tools Muslim jurists can employ; a new method may be utilized so long as it does not disregard any revealed laws or maxims. The test for "constitutionality" then, is whether a particular ruling accords with unambiguous verses of the Quran or well corroborated Sunnah of the Prophet.

Mr. Alhaffar then went on to point out that the lack of specific rulings in the Quran left much work for the *fuqaha'* (plural of *faqih*). Nevertheless, he commented, the simplicity of Islamic theology (staunch monotheism) left them free enough to do so. In fact, the speed with which *fiqh* reached the highest stages of development attests to this. Sadly, the speaker lamented, Islamic jurisprudence has stagnated since as early as the sixteenth century due both to an inadequate amount of *ijtihad* by scholars, and the colonization of almost all the Muslim nations. Today, nearly all-Muslim countries apply European Civil Law as their main legal system.

Islamic Jurisprudence Week at William Mitchell, probably the first of its kind at an American law school, took place March 15th through the 17th. Scholars, community and business leaders, as well as law students discussed Islamic law in a wide context. On Monday, March 15, Imani Jaafar-Mohammad, President of the Muslim Law Student Association, gave a woman's perspective on the Legal Status of Women in Islam.

Tuesday afternoon, Mr. Louai Alhaffar, Coordinator of the North American Fiqh Council, delivered a thoroughgoing lecture on Foundations, Sources, and Methodology of Islamic Jurisprudence. That night, Dr. Ali Jaafar, President of Minnesota Medical Physics, addressed Islamic Business Law from an American businessman's perspective. Wrapping up the "week" on Wednesday night, Dr. Hamdi Al-Sawaf, President of the Islamic Center of Minnesota in Fridley and a psychologist, led a discussion of Family Law in the Kelly Boardroom.

MLSA intends to hold Islamic Jurisprudence Week yearly around the third week of March at William Mitchell. MLSA hopes to make this a Mitchell tradition and help draw attention to our school as a place of understanding, tolerance, and community participation.



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Lawyer Joke of the Month

A housewife, an accountant and a lawyer were asked "How much is 2 plus 2?"

The housewife replies: "Four!"

The accountant says: "I think it's either 3 or 4. Let me run those figures through my spreadsheet one more time."

The lawyer pulls the drapes, dims the lights and asks in a hushed voice, "How much do you want it to be?"

The Opinion's Opinion Page

A Letter to the Editor

I am disgruntled and upset about the way that the newspaper is being handled at William Mitchell. Though I can see it is under keen, talented editorial leadership, I note that it remains underfunded and underappreciated by the powers-that-be at the institution. I believe that it is fine time that somebody wrestle control of the paper from the incapable hands of the neophyte politicians and back into the hands of the students the paper intends to serve. I think it is time for the school to step up to the plate to provide the meager funding required to keep the paper in print. (Yes, I am one of the indignant traditionalists who believe it needs to be in newsprint too.)

Parenthetically, I understand from having tried to herald this same initiative a

few years ago, that the school is reluctant to fund the newspaper in any way because they are worried about liability, presumably for libel or slander. However, if liability is such a concern, the school might be better served directing its attention to the recent activities of the SBA Board—or even to its own leadership. Regardless of where we shine the bright light, we're always going to find some manner of misconduct. If the misconduct is the reporting of other misconduct, our concern should always be keeping the bright light on. Certainly in a building packed to the gills with lawyers, the school should be able to find a way to keep the lights on without having its hands on the switch.

In 1919, Justice Holmes filed a dissent in *Abrams v. United States* in which he wrote in dissent: "But when men have realized that time has upset many fighting faiths, they may come to believe even more than they believe the very foundations of their own conduct that the ultimate good desired is better reached by free trade in ideas — that the best test of truth is the power of the thought to get itself accepted in the competition of the market... That at any rate is the theory of our Constitution. It is an experiment, as all life is an experiment." In 1997, Justice Stevens echoed this metaphor in his opinion in *Reno v. ACLU*, striking down the

Communications Decency Act, concluding: "As a matter of constitutional tradition, in the absence of evidence to the contrary, we presume that governmental regulation of the content of speech is more likely to interfere with the free exchange of ideas than to encourage it. The interest in encouraging freedom of expression in a democratic society outweighs any theoretical but unproven benefit of censorship." Turning a blind eye to the plight of the student newspaper has the practical effect of censorship or prior restraints on student editorials.

Arguably, no rational group would fund a newspaper that would shine a bright light on its activities. Rather, the rational group's lawyer would probably advise against it, and the rational group's PR people would be in a tizzy over the idea. What kind of a rational group are we? What is the mission statement of this rational group we call William Mitchell College of Law? Mitchell's website contains a "Message from the Dean", stating the Mitchell mission as follows: "For more than 100 years, we've offered legal education that emphasizes theoretical knowledge blended with practice skills, an ethic of service, and a commitment to social justice. Here you will find a contemporary, high-quality academic program that follows a learn-by-doing principle, providing students the opportunity to put classroom learning to work." William Mitchell College of Law actually sounds like the kind of

rational group that would encourage the bright light of journalism in its classrooms, corridors and community. Thus it would only stand to reason that the school would support the newspaper, welcoming it as an integral part of a healthy real-world pedagogy, embracing it as an institutionally funded but student run initiative—keeping the lights on without keeping their hands on the switches.

The school has recently undergone some major changes, most notably in the changing of the (Deans') guard and in the ongoing renovations to the building. Meanwhile, Mitchell students are studying the law at a time when the law threatens to stand on its head as soon as next week, bowing to political whims, irrational fears, or just abject intolerance. The law you study today is at least twice as interesting as it was three or four years ago. Possibly more. But more than ever, the way that the law changes is probably twice as important as when I started to study it six years ago. Possibly more.

William Mitchell receives regular accolades in rankings and in reputation for the merits of its in depth practical skills courses. William Mitchell students "hit the ground running", ready to practice law straight out of the gates. In my mind, practical legal skills are not simply trial skills. Nor are they limited to the ability to write a brief or a scholarly journal article with perfect citation.

Continued on page 8



The Opinion
wants to know
YOUR opinion.

Tell us what you think:
theopinion@wmitchell.edu

The Opinion's Opinion Page

H E A R S A Y

There's no doubt about it. We at Hearsay have been scooped. Scooped in our own backyard. It doesn't happen often- okay, maybe it does- but at least it usually isn't one our own presumably devoted readers who scoops us on a national level. Imagine our dismay and surprise when we read about the latest bump in the rocky road of the WMCL legal learning- not in our own admirable publication- but rather in one of those ubiquitous law student magazines littering Hachey.

Last month's *National Jurist* printed excerpts from a memo written by our very own Professor Kleinberger to his Section 5 Contracts class and submitted to NJ

by a student. According to NJ, Prof. Kleinberger penned the infamous memo after a majority of the class fared miserably on their Contracts mid-term.

The memo expresses sincere frustration by the lousy academic performance of the would-be contracts scholars—noting that something like two-thirds of the class “scored below the minimum level that would be typically necessary to earn a C.” Prof. K also points out that “these are the worst results I have ever seen in 17 years of law school teaching.” (A ray of hope? Does that mean that Prof. K has seen worse results elsewhere? – *memo to Hearsay-selves, check to*

see if Prof. K has ever taught an ethics course for CEOs. But that isn't the worst part of the memo. The real nightmare for his Section 5 students begins when Prof. K attempts to understand why his students can't tell the difference between an acorn of consideration and a pinky swear. In the memo, he first rejects the idea that Section 5 students just don't care. (Of course, they care! They're first years who don't know any better! The serious jading of a law student doesn't really get going until second semester second year.)

He then goes on to identify the real problem—his students are not spending the requisite 33 hours a week studying law. **33 hours!** William Blackstone have mercy! We at *Hearsay* have logged maybe 33

hours a semester – definitely 33 hours per year studying – but never, ever 33 hours per week. And yet, somehow, even though we at *Hearsay* aren't the sharpest tools in the box, we have managed to pass contracts and are odds on favorites to graduate.

Based on our own experience, we at *Hearsay* doubt that the problem is insufficient time studying. Nor do we think that there is something fundamentally different about this year's Section 5 class than every other entering class since the dawn of time. We at *Hearsay* are descended from a long line of one-room school marms – marms who always held that if a majority of their class did poorly, it said more about the teaching than it did about the students.

Letter...

continued from page 7

Nor are they the more holistic notion of the ability to “deal with” clients and adversaries. In the broadest strokes, practical legal skills must encompass a worldview and sense of context—a notion of where and how the lawyer and the law effect and play into the way the world works. A successful lawyer needs to know which way the wind is blowing. And sometimes she needs to know how to sail against it.

I worry now, and worried as a Mitchell student, that our careful focus on rote memorizing the common law or learning to conduct a

deposition, takes the law student eye off of the ball that we live on. Current events, and current opinions are our legal weathervane. What at William Mitchell strives to provide this weathervane for students, faculty and staff? It could be *The Opinion*. The answer, my friend, is now blowing in the wind.

Any savvy student, faculty, staff-member or Mitchell alum can subscribe to local newspapers, bar association magazines, alumni magazines and listservs to get their daily dose of the issues that impact our practice, our education, our community, and the law. Any savvy law school should also recognize

this demand and work with students to incorporate this daily dose into the school in a permanent and significant way.

The Opinion has been around almost as long as the college. Professor Heidenreich's book, “With Satisfaction and Honor: William Mitchell College of Law, 1900-2000” traces the history of the college with reference to the paper. The paper's spotty history of publication was due more to lack of regular funding than to lack of interest. I read every *Opinion* as soon as it comes out. I look forward to it. The most recent issues point out the struggle the paper is facing just to stay

alive. As a proud Mitchell alum who benefited handsomely from scholarship aid, I plan to contribute financially to the school in the future. I hope my contribution can be made to enhance and strengthen the school's commitment toward the most practical of legal skills—the sense of context, the legal weathervane of editorial journalism. I just hope *The Opinion* remains a part of the school until that day.

*Jennifer M. Macaulay,
Attorney at Law (WMCL '02)
Macaulay Law Offices
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Consulting, Ltd.*



Common Cents for the Broke Law Student *brings you:*

Are You Ready for Summer? Take This Short Quiz to Find Out...

*“Common sense
often makes
good law.”*

—William Orville Douglas

by Deborah Arndell

You wake up and look at the clock. The time is 9:37. Do you...

- Scream “Shit!” and jump out of bed, realizing that you’re late for your “clerk-ing” job.
- Hit snooze. If you’re already late for the job, what are a few more minutes?
- Wonder if that is a.m. or p.m. and roll back over and go to sleep.
- You’ve been up since 5 a.m. and this little nap felt good. You casually get up and go back to studying for next year’s classes.

You’ve just returned from a mini-vacation over Spring Break and are emptying out your carry-on. You find...

- An empty bottle of Captain Morgan’s Spiced Rum, your favorite paperback, and your almost completely used tube of Coppertone.
- A copy of *Synthesis*, with flags marking the pages, and Professor Kunz’s home number, just in case.
- Your laptop computer and the disk you used to work on your law review submission.

- Nothing. You never left because you were late for your job so often that your vacation was DENIED.

You’re switching out your winter wardrobe with your summer wardrobe, keeping in mind that those items you will use most are top on your list to locate. Those items important to locate include...

- Your Speedo, flip-flops, and sunglasses to go with your blender, pop tarts, and lost shaker of salt.
- You don’t need to switch anything out because you wear your suits all year long. Besides, you got rid of all of your summer clothes last year for the tax deduction.
- Not applicable. What’s a wardrobe? My upper body items are in one stack and my lower body items are in the other. My shoes are on

the floor, somewhere.

- Those items are listed in your laptop files, under “Personal Wardrobe Transition.” You’ll access that information when your Palm Pilot instructs you to do so, which is sometime after Memorial Day but before the Fourth of July, depending on when the temperature reaches at least 74 degrees for four days in a row, with a wind out of the NW less than 7 mph.

Your friends invite you over for a barbeque and bonfire. You...

- Ask which judges, professors, and/or WMCL Board of Trustees members will be in attendance.
- Let your friends know that you’ll check your schedule and get back to them. Your Palm Pilot battery is low, so it could be a few hours before you know.

- Grab your tiki torches, unwashed skewers from last year, and the 12-pack of beer next to your bed and run out the door.
- Are already there because you crashed on their couch the night before.

You are in the pool, relaxing on your raft. You doze off and imagine...

- A large shark closing in on you. Upon closer glance, its head looks a lot like the professor of your upcoming summer class.
- You’re drowning, like you have been for the past two years.
- You’re swimming in an ocean of margaritas and Jose Cuervo is surfing past you on a board made of tortilla chips.
- You’ve wet yourself. It’s a childhood thing brought on my trauma and warm water. You have actually wet yourself.
- That you dropped your PR book in the water. You awake with a start and realize you have.

You’re outside sitting on the deck after hours, with the sound of the crickets, the light from the moon, and a nice glass of wine. Sitting next to you is/are...

- Someone else, not related to you, that’s totally hot.
- One of your parents offering you a Coke instead.



Is this as close as you'll get to the beach this summer?

Continued on page 13

Exercise: It Does a Body Good

Well, this is it—my last article for *The Opinion*. My last chance to spew random truths and lies across the page for public consumption.



**Shawn
Bakken's
Sports**

My final attempt to make you smile, make you laugh or cause severe emotional scarring that will linger for the remainder of your existence. Whichever the case may be, I'm proud to have had an impact on your life.

But for such a momentous occasion, what should I write about? It's obviously too late to take a poll, calling random faculty members in the wee hours of the morning and muttering incoherent questions until they slam the phone down and go back to bed. The poll would be run differently, of course—I just like the idea of waking up professors to make them lose as much sleep as I have from all the extensive reading assignments.

No, I think it's time to have this column come around full circle. After all, when *The Opinion* printed my first article, I was broke, unemployed, and terrified of tests looming in the near future. Now there are student loans with an accumulated value of a bajillion dollars, a questionable future in the legal field (given the lack of success I've had through good ol' OCI...) and I get to cough up thousands of dollars and several internal organs to pay for the Hell that is

Preparation For The Bar Exam.
Mwa-ha-ha-ha!

Hmmm... in retrospect, maybe things weren't all that bad. But when I began writing this column, it was an effort to combat the stress that had built up over the course of my career here at William Mitchell. I wasn't allowed to run around and kick the windows out of cars, stores or my friends' apartments, so I started trying to exercise. From there, I moved on to other sports that I frequently failed to perform properly and now I'm back to exercising again. *Crap.* I hate exercise.

Still, I can look in the mirror and see some of the changes that have been happening over the last ten years or so. Some parts are a little softer, some jiggle a little more than they used to and some have completely lost the ability to resist the force of gravity. Then when I turn my eyes from my face to the rest of my body, it's time to accept the reality of my situation: "I need to exercise."

And I can see you all out there doing the same thing, looking in the mirror and saying, "Shawn, you need to exercise." Thanks. I appreciate the motivation.

But the experts say that it's easier to stay motivated if you've got someone who will work out with you, so if you're willing to put aside the compulsion to not be associated with me in any manner whatsoever, we can set up a work-out plan that'll leave us all in better shape. Or at least prevent our jowls from sagging too much more.



Hey! If these guys can do it, what's your excuse?

Step One: Start off slow. There's no point in donning football pads, sprinting for 100 yards, straining your groin and spending the rest of the season in an easy chair sporting a bag of Cheetos and the remote control. Just make a few subtle changes in your lifestyle and you're on your way to a new level of fitness! Preferably one better than before!

First, put your car keys back into your pocket and walk the two blocks over to Billy's to develop a little endurance. If you want to build some arm strength, forego the straw and lift your glass all the way to your mouth with your hand. (To equalize the results of that exercise, of course, you'll have to hold two drinks, one in each hand.) Finally, if you want to adjust your diet and cut a few carbs, you can buy some appetizers and let me eat them for you—the joy I feel in consuming such yummy food should spread to both of us. Or at least encourage you to buy more appetizers that I can mooch from.

Step Two: Find a goal to reach. And I'm talking about more than just getting appetizers at Billy's—you need to choose something that you *really* want (or *really* don't want) to keep yourself on track. Looking at yourself in the mirror probably won't be enough. After all, you can say to yourself, "I've already dumped so much money into law school, so what's an extra couple thousand for a face lift, a nose job, or some Botox injections? After the operations, my face will look completely fat-free!" The surgeons may turn you into the next Michael Jackson, but if you're willing to make that kind of sacrifice for beauty, more power to you.

Personally, I'd like to keep the results of my fitness goals out of the hospital (aside from the occasional recovery period after suffering another cardiac arrest), so here's something that might work for all of us. I picture myself walking around the Minnesota State Fair. Of course, I want to stop and buy some pizza, cotton candy, ice cream sandwiches and cheese

Continued on page 11



by Kevin Campana

As Interim Dean of Students, many of the complaints I hear are about parking. I am pleased that the SBA has formed a Parking and Safety Committee, so we can work together to try to improve the situation. Here is what I think needs to be done:

Solve the 4:30-5:30 p.m. problem in the Victoria lot. The key to solving this problem is determining the right number of parking permits to sell. The primary complaints about the Victoria lot come from permit holders (probably part-time students) who come here between 4:30 and 5:30 p.m. and cannot find a spot

in the Victoria lot. There must be a magic number that works for this time of the day—we need to find that number and stay there.

We need to consider more aggressive enforcement of the parking restrictions in the Victoria lot. Perhaps cars without a permit that are not registered visitors should have a “boot” put on them or even be towed under certain circumstances.

We need to work with the City of St. Paul to improve the signage around the campus. The places where people should not park need to be signed, or the curb needs to be painted yellow.

We also need to work with the City of St. Paul to obtain more consistency in the enforcement of the rules. The sporadic enforcement we have seen lately really bothers people.

More people need to use the Grotto lot. Most days it sits

Re: Parking

almost empty while people circle the Victoria lot looking for a space. It's only 2½ blocks—call it a fitness program that costs nothing.

We need to work with the City of St. Paul to seek better enforcement by the city of the shoveling ordinances so the sidewalks between the college and the Grotto lot are shoveled, as the ordinances require.

Upon completion of the building project the Portland lot (minus about 8 spots) will reopen for staff use during the day and student parking in the evening.

We will have decreased demand for parking when Minnesota CLE moves out of the LEC building and their employees no longer park in the Victoria lot.

We will regain the use of the parking spaces on the south side of Portland once construction is completed.

We need to work with the

City of St. Paul to see if we can improve the lighting in this area. The streets around Mitchell are poorly lit and we need to see what can be done about it.

If I had to list one more item it would be to improve the “Snow Emergency” rules for St. Paul, which may be near impossible. Therefore, we probably need to settle with trying to understand how the regulations are enforced and be proactive in issuing advisories so people don't end up with their cars being towed.

We are actively seeking a meeting with the City of St. Paul to discuss the issues over which they have control. It is our hope that by fall we will have improved the parking situation for William Mitchell students as a result of a cooperative effort between the college, the SBA, and the City of St. Paul.



Sports...

continued from page 10

curds. Mmmm, cheese curds... But it's all in my head, so resisting temptation isn't too difficult. That doesn't take care of the drool stains on my shirt, but I can always claim it's sweat from walking so fast.

After scoping out the food, I look around at all the people. Most of them are relatively normal—talking with friends, holding hands or dragging screaming kids away from the waterslide—not a big deal. But there are also a few people who don't have necks. People who have skin spilling out of their shoes and onto the street. People whose stomachs hang down so far

over their waists that the lint in their belly buttons comes from the fly in their jeans. Sure, comparing yourself to them might make you feel like you're in shape, but that's not saying much—they look like bloated whales. (And they oftentimes smell like one, too.)

If avoiding the potential of turning into one of those people isn't enough motivation, then get on your exercise bike or treadmill before reading the rest of this paragraph: imagine that they're converging towards you from all sides. If you get caught, you'll get squished by the collective fat content in their bodies. (They may not be able to crush you to death,

but getting smothered by a large mass of chubbiness sounds pretty horrid, too.) If you *still* haven't started moving yet, then imagine that they're all *naked*. Big flabby people waddling in your direction, thrusting their cheese curds into your face, insisting that you join their ranks because cheese curds *taste so good!* ...Crap. Now I hate cheese curds.

But remember what I said about taking it slow. As scary as this scenario might be, it shouldn't take much for you to escape—if you ride your bike or walk at a semi-fast pace, you'll have no problem creating some extra space between yourself and those giant blobs of human chole-

sterol. And the horror you've just experienced may help curtail your appetizer-consuming habits as well.

Three: ...Um... exercise because I said so? Yeah, that's it...

Now that you've got your fitness goals set, it's time to put them into action. I'm afraid I won't be around to check on your progress for much longer, but if you don't remember anything else, keep this in mind: my car is a green Ford Contour parked alongside the street—if you kick the windows in, I can use the insurance money to pay for my bar application.



To Mediate or Litigate, That is the Question!

by Melessa Henderson

"Then the king said, 'Let's get the facts straight: both of you claim the living child, and each says that the dead child belongs to the other. All right, bring me a sword... divide the living child in two and give half to each of these women!' Then the woman who really was the mother of the child, and who loved him very much, cried out, 'Oh, no, sir! Give her the child—don't kill him!' But the other woman said, 'All right, it will be neither yours nor mine; divide it between us!' Then the king said, 'Give the baby to the woman who wants him to live, for she is the mother!'"

— 1 Kings 3:23-27,
circa 600 B.C.

This was always one of my favorite stories. To win was ultimately not to have the baby but to see the baby live. The wise king gave the baby to the mother who realized the principle that it was better to win, than to prove she was right. Ironically, this principal was really brought home to me my first year here

at WMCL. As much as I hate to admit it, in WRAP I learned a ton from the mediation exercise. As we all know by now, mediation is where two or more parties with their legal counsel meet together in hopes to avoid a trial and all of its associated tribulations. Mediation is several times less expensive than going to court, and it generally takes less of a toll on the relationships between the parties. Mediation is often dull, and lacks the flare noteworthy for TV or movie drama. However, oodles of time and money are oft wasted on litigation.

On the day of my WRAP mediation exercise I was prepared to prove to the mediation facilitator that my side was right, and we deserved to cash out of this ordeal big. I had made graphs and even a flip chart, I dressed in my strong black suit, and went with the attitude that at all costs my side was right and the others were clearly wrong. This mentality

is advantageous if you *litigate* a case, however it is terribly detrimental if you *mediate* a case. I lost big time as reflected by my grade. However, I did take away an extremely indelible life lesson far more valuable than the grade that I missed. **Relationships, and especially the most precarious of all called marriage, require the mind frame of a mediator and NOT a litigator.**

A good mediator knows not only that his side has valid points and arguments, but that the other side does so as well. A good mediator knows that to settle there will definitely be a ton of give and take, and that there will probably not be one party that comes out with a killing, at the demise of the other. Each party will have to walk away if not happy, at least feeling like their side was heard, and a just compromise was made. The key thing about mediation is that generally after the process the parties can maintain a workable relationship. If a case has to go to court and the parties suffer the litigation process, there is little chance for repairable relations.

After my mediation exercise, I realized that much of the turmoil I ever experienced in relationships was because I always *litigated*, rather than *mediated* my side. Every conflict of my life thus far, be it with my parents, my brother, or even my husband, I fought tenaciously to prove at all costs that I was right. Life though, is somewhat relative, and it is indeed very possible to have two polar opposite perspectives that are both right. In relationships

that you hope to continue, it is far better to go into a conflict resolution with the mentality that this is an issue that must be carefully and tactfully mediated rather than passionately litigated.

To coin a Lombardi-ism, "Winning is not everything... it is the only thing!" Keep in mind the story of the two mothers. The one that ultimately won was the mother who knew it was better to win the life of the baby than to be right, prove she was the mother, and have a dead baby. In the end, wisdom and discernment prevailed, and she even got to keep her beloved little one. And so dear readers, I encourage you to first define what it is to "win" in your life. Is it to keep your marriage intact throughout law school and beyond? Is it to have a great relationship with your parents, your siblings, your children, or even those in your study group? Or is it to be right, and make sure everyone around you knows it? Being right seems like a very hollow victory, if it costs the relationships with all of those around us. In real life, most often it is far better to mediate and win than to litigate and be right!



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"No, my husband and I never fight. I'm a litigator and, frankly, he can't afford my time."

Chivalry Alive & Well at WM

Dawn Warneke, member of *The Opinion* layout staff, would like to thank Mark Hellie for his gracious assistance changing a tire the other day. Your help was greatly appreciated.

Summer Quiz...*continued from page 9*

- c. Four members of your study group.
- d. An ex-member of *Law Review* who is now your tutor.
- e. A stack of casebooks, mosquito netting for protection from bugs, and a copy of the Constitution.

You're in your car with the top down, listening to the radio. You are listening to _____, while you are _____, on your way to _____.

- a. NPR, driving with two hands [at 2 and 10] on the wheel, work.
- b. The White Stripes, car dancing, a downtown concert.
- c. Jimmy Buffet, singing at the top of your lungs while steering with your legs, the coast.
- d. Melissa Etheridge, singing at the top of your lungs while playing air guitar, P-Town.
- e. Your little brother nag you, trying to reach in the back seat and get the map, drop him off at summer camp.
- f. Sirens, being pulled over, take the Bar Exam.
- g. A sports channel, changing from your suit into your shorts and tee, play some golf.
- h. The weather channel, trying to call Mitchell's weather hotline, class.

A Mitchell faculty/staff member has invited you out on his/her yacht. That member is _____ and you say, "_____", because you _____.

- a. "who cares", absolutely,

have only ever been in a canoe and that tipped over—what an opportunity.

- b. Irrelevant, No way, know that the Feds must be watching any staff or faculty member at Mitchell who owns a yacht.
- c. A Dean, Ahoy mate, have never seen Titanic and don't know what big boats look like when they sink.
- d. Your idol, Only if I don't have to paddle, always say something stupid when this person is around.

It's one day before graduation and you...

- a. Are still trying to finish your long paper.
- b. Are wondering if you should call the Registrar back since he has phoned a dozen times mumbling something about credits.
- c. Are on a fishing boat in Alaska trying to make enough money to pay off the remainder of your tuition.
- d. Have gone AWOL. If the President can do it, so can you.
- e. Are home watching a *Seinfeld* marathon, wondering which character most aptly represents your future.

It's graduation day and you...

- a. Are still trying to finish your long paper.
- b. Are wondering how much power a Registrar really has and how often mistakes occur.
- c. Are throwing up over the side of an Alaskan fishing boat when you suddenly lose your balance and fall overboard. Your loans are

now covered.

- d. Hear on the news that you are being investigated because there are no records that you ever attended class or that you were even registered for any courses.
- e. Are drunk at Sharon's party, wondering where everyone went and what could have been so important that people would abandon their tents and kegs.

SCORING:

There are no scores or points [no, overachievers, there is no one to beat, so lighten up]. If you took the time to take this quiz, then you are obviously NOT ready for summer. The truth is, if you really were ready, you wouldn't have time to waste on it. You would be planning, tanning, and so tired of quizzes and tests that you would have by-passed this section of the paper altogether. Of course there are no doubt those of you who still take the *Cosmopolitan* tests, as if they can really tell you anything you couldn't learn from watching Fox.

But in case you did take the time to read it, I should pass on my last piece of wisdom; my last nugget of advice; my last ounce of information for those of you who have suffered through this column this year, anticipating each and every word of each and every sentence. So, here goes.

If you're 1L and in good academic standing [top 25], take the summer off and search for the reasons to return for a repeat performance. Have a few beers, put your feet up, let the wind rustle your hair, and socialize

more. You'll need to fully develop your people skills if you're going to survive OCI next year. Listen to me: GPA and rank are NOT enough. You must have a personality. Consider going out to the zoo and watching the monkeys. If they are more interesting than you, don't worry—they are more interesting than most of us. Now, go and watch the otters. If they are more interesting than you, again, don't worry. They are also more interesting than most of us. However, if you go and watch the buffalo, sitting in their mud holes staring blankly at you, chewing cud, and they are more interesting than you, then you have some work to do this summer. Go to the self-help section of a bookstore and pick up some light reading material. Go out to coffee shops and talk to people, even if you don't want to. Go to amusement parks, get on the scariest rides you can find, and scream at the top of your lungs. Practice being with people and see if they respond. Go biking around the Lakes in Minneapolis and see if children make fun of you. Listen to them—they're cruel, but they know what they're talking about. You'll come back a changed and amazing person.

If you're a 1L and not in the top 25, take the summer off anyway and search for all of the reasons that you were in law school to begin with. If you can't come up with at least 3 reasons why you're here for every B you got, or 5 reasons why you're here for every C you got, then you should consider jumping a fishing boat in Alaska, moving to Iraq to search for WMD, building a cabin in Montana and learning about

Continued on page 16



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Swan Swan H

From the album
"Life's Rich Pageant" by REM



*Swan, swan, hummingbird
Hurrah, we are all free now
What noisy cats are we
Girl and dog he bore his cross
A long, low time ago, people
talk to me*

*Johnny Reb what's the price of fans
Forty a piece or three for one dollar?
Hey captain don't you want to buy
Some bone chains and toothpicks?*

*Night wings, her hair chains,
Here's your wooden greenback, sing
Wooden beams and dovetail sweep
I struck that picture ninety times,
I walked that path a hundred ninety,
Long, low time ago, people talk to me*

*A pistol hot cup of rhyme
The whiskey is water, the water is wine
Marching feet, Johnny Reb, what's the price of heroes?*

*Six in one, half dozen the other,
Tell that to the captain's mother,
Hey captain don't you want to buy,
Some bone chains and toothpicks?*

*Night wings, her hair chains
Swan, swan, hummingbird
Hurrah, we are all free now
What noisy cats are we
Long, low time ago, people talk to me
A pistol hot cup of rhyme,
The whiskey is water, the water is wine*

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**Congratulations and best wishes to all
Opinion contributors who are graduating
this spring. You will be missed.**

Graduating Opinion Contributors:

Deborah Arndell

Shawn Bakken

Alex Dz

Michael Welch

Lori Bower

Sara Dady

Chad Collins

William Mitchell 1L Serving in the Middle East

By Mary Kilgus

Captain Lee Gearhart just began his second month serving as commander of a U.S. Army Unit in Kuwait. Commander of the 847th Personnel Services Battalion, he began this school year as a 1L at William Mitchell. He left Minnesota in December and left for Kuwait in February, 2004.

"I departed Fort McCoy on February 3rd and arrived at Kuwait City International Airport the next day," he said.

Capt. Gearhart's unit processes all U.S. forces, including the Navy, Air Force and Marines, as well as all coalition forces into the Middle East theater.

"We play a significant part in the largest turnover of troops since the Second World War," Capt. Gearhart says.

"Think of it as a college that graduates 150,000 students and at the same time admits 150,000 students. Let us not forget that the 150,000 graduating students need to hand over some of their knowledge to the new students (for about a month, these two groups of students sit side-by-side in the 'classroom'). Let your mind run wild with the possibilities: logistics, transportation, equipment, dining, lodging, and the like. My unit also schedules all soldiers eligible for Rest and Recuperation leave onto flights back to the States. In addition, we ensure those who have emergency situations back home are able to return to their families."

Capt. Gearhart left a wife and three children in Minnesota, who live in Richfield. The Gearharts have another baby on the way, due in September. He expects to be home by March 2005.

"The Army requirement is that soldiers deployed for Operation Iraqi Freedom serve 12 months 'boots on the ground' (in Kuwait). My one year anniversary will be in February 2005."

When asked if he misses law school, he said "that's a loaded question!"

"I miss law school more than I thought I would. I miss my classmates, the great dialogue in class (well, sometimes you could call it dialogue), the overall intensity of the law school environment, and yes, my professors. There are two things I really do not miss: Professor Oliphant's deck of cards and *Lucy v. Zimmer!*"

Interested persons can send Capt. Gearhart snail mail at

**CPT Lee Gearhart 847th
PSB, Det. 1 APO AE 09336**

He says mail call is the high-light of his day. Email is also available atlee.gearhart@us.army.mil but that's not as fun.

Capt. Gearhart asks for one thing from all of us. "Keep us all in your thoughts and prayers. Please do not let your opinion of the war or politics color your support for our troops; the brave men and women of our armed forces truly deserve the support of our great nation! Do not hesitate to show that support, either."



Summer Quiz...*continued from page 13*

assault weapons and arsenals, or bailing on this life and moving to Hawaii to become a professional surfer. Let the salt into your wounds, and the sand into your eyes. You will be glad that you did.

If you're a 2L, well, know this: it gets really boring from here on out. They say that in law school, the first year they scare you to death, the second year they work you to death, and the third/fourth year, they bore you to death. Consider yourself scared and worked, and prepare for bored. To do this, take the summer off. Go out and do every exciting thing you have ever wanted to do in your life. That might mean parasailing

over Fiji with your Speedo on, swimming the Amazon with a rack of lamb strapped to your back, or hiking through Cambodia without food or water. You might go barefooted in the dog park. The point is, loosen up that seer-sucker suit and live a little.

If you're a 3L who is not graduating yet, well, we pity you most. You should definitely take the summer off. All of the reasons are obvious, so there is no real need to waste any more of your time. Avoid Mitchell, avoid other law students, and most of all, stay away on June 6th when everyone else is "getting the hell out of there."

If you are a 3L or 4L who is graduating this semester, kudos to you. Congratulations

for finally getting to the end. Your marriages/relationships may have failed, your families may have fallen apart, your careers may have been damaged, but you will have your JD. And as a bonus, you will successfully complete the longest form ever created in the history of the world, so you can take the Bar Exam. Study hard and pass, and when you are done, take the rest of the summer off. Sit in your lawn chair at poolside, sipping a cocktail, reading your favorite paperback, chewing on what your life means. And if you have time, try and figure out which character on Seinfeld you most resemble in personality. If it's George, you need another cocktail and some more time off. You're too

tense. If it's Kramer, you need to put the cocktail down and back away from the pool... you've been there way too long. You should go immediately to the nearest job and take it before you spend your life unemployed. If you're Newman, throw yourself in the pool-it's hopeless. If you're Elaine, find someone to love now because as you go down life's highway it becomes a car pool lane and all single travelers are forced off exits leading to nowhere. If you're Jerry, well, just sit back and enjoy the scenery. You made a life about nothing and you should be proud of yourself. You can live every day with no purpose, no plot, and still make lots of money.



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Drop the Puck...

continued from page 1

our men defend the title next season!"

And with that the action began. With slow play throughout the first period, each team feeling the other out, the puck was drawn back and forth until a Piper from Hamline managed to fight his way into open ice to receive a sharp pass from the corner and let loose a well placed shot to beat Mitchell goalie Brian Howard for the first score of the game. The Mitchell fans were shocked, and the Hamline fans erupted in cheers of

**"Mitchell sucks!
Mitchell sucks!"**

"You'd have thought they were the only ones who made it to the game," veteran defenseman Chad May said, waving towards the rambunctious Hamline fans. But the Pipers wouldn't be riding high for long, when early in the second period Hamline took a roughing penalty, putting them down a man and allowing the Pout to make their first strike. Your team in black, seeing this as an opportunity that needed to be taken, sent out their first line power play unit and just like that, following a great backhand by ex-section



Photo courtesy of Elizabeth Warmka

Handshakes and smiles preceded the dropping of the opening puck. Afterward, only Mitchell fans were smiling.

one'er, Alex Velitzik, over the shoulder of Hamline's goal keeper, the score was 1 to 1.

"It was amazing," said 1L Matt Kopp. "After we got that first goal it was like a sleeping giant had finally woken up." The Mitchell fans had indeed made it to the game, and given something to cheer about they let themselves be heard. With the pounding of the glass and the roar of the crowd, unseen by all until it was too late to do anything about it, from places unseen, a lone Mitchell student who had been biding his time brandished our Mitchell flag and tore off across the bleachers filled with the opposing fans. It would've sent chills down your back. Hamline would never hold a lead again.

Nine goals were scored before the game was over and it was a great game. But the fans had to wait until the very last seconds to crown a winner. With under 10 minutes to play in the game the Eelpout managed to slip yet another puck past the Piper goalie to regain, yet again, the lead. 1L and rookie of the year Dan Gallitan, still feeling the sting of being bumped out of the playoffs in the semifinals and inspired by the play of his line mates, decided to show up determined not to lose. Taking a pass from low in the offensive zone from Rob Dolan, he fired a blistering shot to the back of the net to make the score 4 to 3. For the next seven minutes the men in black fended off rush after rush from the Pipers in red. Then, with less than a minute and a half to play, after a bruising game filled with fighting and headbutts, the Pouts were charged with a questionable tripping penalty to put them down on the penalty kill.

The clock ticking and a man up, Hamline pulled their goalie to give them a two-man advantage on the power play. Sure as rain, with a

mere 38 seconds to play in the game, they scored an ugly lucky goal. Their players, slapping high fives, began feeling good and talked about their plans for overtime. Unfortunately for them overtime was simply not a part of the Eelpouts plan. Mitchell won the following face-off at center ice, the puck being drawn back to defensemen Matt Thompson. Thompson moved the puck up ice and fired a pass to winger Jimmy Erickson who dumped it deep into Hamline's zone. With 20 seconds left a scrum began in Hamline's corner. The fans were on their feet and you couldn't hear the person next to you it was so loud. Less than 15 seconds, 10, 9, 8... The puck was bouncing everywhere and sticks were slashing at it from all sides, but in the end it would find its way on to the stick of Gallitan, who with 5.8 seconds left on the clock managed to propel the puck towards the opponent net, slip it under the goalie's shoulder and score the game winner.

**The final score:
William Mitchell 5,
Hamline 4.**

Thanks to all the fans and students who came to cheer us on this year. \$1000 was raised from ticket sales and donated to the Boy's and Girl's Clubs of the Twin Cities, and we retained the title for yet another year. Thanks everyone!!! We'll see you all next season. Until then, stand proud Eelpouts, we're number one.



Photo courtesy of Elizabeth Warmka

Dean Easley gets ready to make history.

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