

# THE OPINION

William Mitchell College of Law Student Newspaper

## The September 11 Assault, The October 7 Response, And The U.N. Charter



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By: Anthony S. Winer, Professor of Law, William Mitchell College of Law

Political figures in this country sometimes view the United Nations as a mere political organization of dubious legitimacy. It is not unusual for Senators and other federal politicians to chastise the organization, for example, for inefficiency, wastefulness or bias. Sometimes the suggestion is even made that the United States withdraw from the UN.

However, under current doctrines of international law, the position of the UN and its founding instrument, the UN Charter, are not the least bit dubious. Quite simply, the mandatory provisions of the UN Charter, and actions taken by countries and UN forces pursuant to them, provide much of the basis for modern international law. Like it or not, anyone who wants to take international law seriously in the modern era must take the UN and the UN Charter seriously.

The purpose of this essay is to review the chain of key events that began with the September 11 attacks from the perspective of the international law principles set forth in the UN Charter. This should provide a background for understanding the international-law basis of much of what U.S. officials have been doing in recent weeks, and what they may be doing in the future.

When the UN Charter was adopted in 1945, the countries that emerged victorious from World War II hoped that the new document would help to establish a world in which recourse to war by states would not be legally permissible. It is in this spirit that Article 2(4) of the Charter prohibits "the use of force against the territorial integrity or political independence of any state". This language is intended to outlaw war as an instrument of national policy by any UN member state.

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## Attack on America: What You Need To Know

By Chris Frank, WMCL-4L

On September 11, 2001, America was stunned by the greatest act of terrorism to ever occur on its soil. At the time this was written, America had just begun its attack on base camps of known terrorists in Afghanistan. It is the purpose of this article to provide a brief synopsis of some of the central people and places at the center of the war on terrorism.

### Osama bin Laden

Osama bin Laden is considered by most to be the man responsible for the September 11, 2001 attacks on the World Trade Center and the Pentagon. He was born in Saudi

### It is estimated that bin Laden has a network of over 3000 Islamic militants.

Arabia, one of twenty sons of a wealthy construction magnate with close ties to the Saudi royal family. In 1979, at the age of 22, bin Laden left Saudi Arabia to support Afghanistan in its decade-long fight against Russian invasion.

In 1981, bin Laden received a degree in Public Administration from King Abdul-Aziz University in Jeddah, Saudi Arabia. In 1989, after Russia withdrew from Afghanistan, he returned to Saudi Arabia to resume work in the family construction business, the bin Laden Construction Group. In the early 1990's, bin Laden's Saudi citizenship was revoked and his family disowned him because of his extremist views. He spent the next few years in Sudan until 1996, when U.S. and Egyptian pressure resulted in bin Laden being expelled from Sudan. He then returned to Afghanistan where he has since lived under protection of the Taliban.

Osama bin Laden is the leader of an international terrorist group known as the Al-Qaida. The Al-Qaida group has cells in numerous countries including, allegedly, the United States and the group is financed by bin Laden. It is estimated that bin Laden has a network of over 3000 Islamic militants. According to the U.S., bin Laden is responsible for at least three other major attacks: the 1993 bombing of the World Trade Center, the 1996 killing of 19 U.S. soldiers in Saudi Arabia, and the 1998 bombings in Kenya and Tanzania.

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## Faculty Support of LRAP and PILF Summer Stipend Challenge Gift Proposal is Awesome



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By: President and Dean Harry J. Haynsworth

Most law students borrow some, and in many cases all, of the tuition and other costs of their legal education. Student law school indebtedness has risen steadily in recent years and many students graduate with total loans in excess of \$100,000. William Mitchell students are no exception. The average indebtedness of last year's graduates was approximately \$60,000. Repayment of these loans is a significant burden, even for those graduates who have relatively high paying jobs with law firms. The repayment burden is almost overwhelming for those graduates who work in legal services organizations such as SMRLS (Southern Minnesota Region Legal Services), and the Legal Aid Society of Minneapolis, government agencies and other public interest legal organizations where salaries are significantly below those in private law firms. Many of the jobs in these organizations pay salaries of less than \$35,000 per year.

In order to assist law school graduates working in public interest legal positions, approximately 50 law schools and organizations in six states, including Minnesota, have established what are known as Law Repayment Assistance Programs (LRAP). These programs reimburse law school graduates employed in qualifying public interest organizations for a portion of their loan payments, thereby reducing the recipient's repayment burden. In essence, LRAP grants are like a traditional need-based scholarship, with the difference being that the "scholarship" is paid after graduation rather than while the graduate is attending law school.

LRAP-MN was established ten years ago. It makes LRAP grants to qualifying graduates from Minnesota law schools as well as graduates of other law schools. In recent years, LRAP-MN has made annual grants totaling in excess of \$65,000. Many of the recipients each year are William Mitchell graduates. In the 1999 grant cycle, for example, five of the LRAP-MN grants were made to William Mitchell graduates.

Most of the LRAP-MN contributions come from law firms, practicing lawyers and judges. Some of the money comes from law students through a check-off system at each law school. The contributions to MN-LRAP from William Mitchell students through this system have varied from year-to-year but have averaged about \$900 per year in the past five years.

The actual need for LRAP grants is far greater than LRAP-MN can provide. Each year many qualified lawyers receive no grant; and even those who receive grants receive far less than the maximum they are entitled to under LRAP-MN guidelines. For example, in the 1999 grant cycle, the maximum award was \$3,600 but the average award was only \$2,500.

Increasingly, the amount of LRAP assistance to William Mitchell graduates has been a high priority goal of mine since I came here as dean in 1995. The creation of an endowment, the income from which would be dedicated to LRAP grants, was included in the Centennial Capital Campaign, which is still under way. To date, however, very few donors have made significant restricted endowment gifts for this purpose. Last spring the Board of Trustees established two \$25,000 endowed scholarships in honor of Professors Paul Jones and Paul Marino, both of whom retired at the end of the 2000-01 academic year. Professors Jones and Marino have asked that the income from these endowed scholarships be used for LRAP grants. One additional faculty member is also funding an endowment

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# The OPINION

William Mitchell College of Law Student Newspaper

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## Creaky Worldviews

By Jennifer Macaulay, WMCL-4L

We all have stories to tell, anecdotes to share, e-mail prayer lists, candles to light, and memories to hold on to. Many of us have lost relatives or friends. No one will soon forget the events of September 11<sup>th</sup>. We've changed as a community, and as a nation in no small or insignificant fashion. I'm not talking about the fear... the fact that the army surplus store has an eight-week waiting list for gas masks, that people are having anxiety attacks in tall office buildings, or that nobody wants to travel on an airplane. Fear is a transitive emotion, and emotions are a transitive state of mind. The changes in our worldview are not so transitive, and the way those changes have changed us, and continue to change us will be something that historians and sociologists will reflect on quizzically in ten years. I can't help but reflect on it now.

So many learned commentators have opined that the nation should not be so shocked by the events of late. They tell us that nations of people have hated the United States, and for good reason, for hundreds of years. They tell us, as if we are children, that we are not immune from terrorist blitzkrieg, from nuclear holocaust, from biological warfare. The world part of our common world-

view may have just grown exponentially. That sounds like a good thing on paper. Maybe it's not?

When we live in this insular world, in the "Midwest," as part of our family and small coterie of indispensable friends and lovers, with people we respect and people we despise, cult heroes and heroines and personal and professional goals and aspirations... how often do we really consider Afghanistan or Pakistan or Uzbekistan, religions and beliefs that we don't espouse, people that we've never met, and cultures that we don't understand. How often should we? Are we somehow socially ignorant because we don't think about biological warfare while we brush out teeth? Have we lost touch with reality because we don't understand the Muslim religion as well as we understand our own, or if we don't espouse a religion? Are we naïve and unsophisticated because we felt secure living in this "most powerful nation in the world?"

I would describe my reaction to September 11<sup>th</sup> as willfully inept. (I rely on that reaction quite often; it's a staple in my emotional war chest.) Others have described it (my emotionless response, that is) as a sort of cognitively absent "auto-pilot." Others apparently thought that I secretly felt something very dark. Truth is, I didn't have an emotional response. I assumed that something on TV could not possibly have any significance in my trivial little life. I had class that morning.

## From the Editor

If you are reading this "From the Editor" column, then *The Opinion* has, once again, been published. After the events of September 11<sup>th</sup>, it seems arrogant to assume that the world will continue to go on as it did before. But for many of us, our daily lives remain - for the most part - unchanged. I don't know about you, but that aspect of things is one of the most difficult for me.

Like most law students, I rush through each day, barely aware of the world around me. My schedule of work, class and homework requires it. But since September 11<sup>th</sup>, I've wished for a stop to it all. I want to be able to take time to think about what has happened and, in my own way, to mourn.

As the events of September 11<sup>th</sup> unfolded, I was at work. After the second tower of the WTC fell, I wanted desperately to go home - to be with my husband in the safety of my own home. I waited, agitated, for some announcement from my employer that we could go home, but it never came. Eventually, I left anyway. As I waited for my husband to join me at home, I called William Mitchell, hoping my evening class would be cancelled. It wasn't; I skipped. I stopped for a day but everything around me kept going and keeps going to this day.

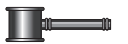
They say that the best thing we

can do is to go back to our regular daily lives but did we ever really do anything else? Our society doesn't like "down time;" it doesn't want to allow time for absorbing unpleasant thoughts. The faster we run, the less we have to think about unpleasant things like the fact that any one of us could have been sitting around a conference table in the World Trade Center on that day, at a real estate closing or taking a deposition, oblivious to the fact that our lives would be over within a few short minutes.

But why think about it, right? What good does it do? Thoughts like that only serve to get in the way of efficiency and the ability to build wealth. Why shut down a business or a school just because the WTC collapsed and the Pentagon is burning? That would only give us time to dwell on inefficient *emotional* things like sadness, shock, empathy and sympathy. These emotions have no value, right?

I wouldn't be surprised if the Federal Government declares September 11<sup>th</sup> a federal holiday to remember and mourn the people lost in the terrorist attacks. Too bad we'll all be at work that day.

*Editor-in-Chief,*  
*Jen Henderson*



Estates and Trusts, 7:30-8:50. We left class and walked through the commons whence we encountered a veritable throng of students, faculty and staff surrounding the TV's. I asked a throngster what was going on, and they responded that someone had bombed the World Trade Center and the Pentagon - something about commercial airplanes. I kept walking. Got in my car and was driving to work when someone called and told me we the office was closing for the day. I went home and walked my dog, and people were coming out of their houses just looking at each other blankly. I returned the favor in kind and continued to auto-pilot myself home. Sorry idealists, this is not the shock part of the story. This is me on a daily basis. And I would hasten to guess that it's most of you too.

They closed the University of Minnesota, and my sister, a student there, stopped by to camp on my notoriously comfortable couch to watch my notoriously mesmerizing TV in the cramped little womb that I call home. Womb it is. There, my sister and I sat complacently and emotionlessly watching the gut-wrenching human trauma that was, and still is, September 11<sup>th</sup>, as narrated by a variety of familiar looking talking-heads. So sad that this has to happen to "other people," out in that "other place."

And later, as the days passed, and our nation's leaders decided to send military troops to the Middle East, again, we thought about how scary that must be for "those people" and "their families." I thought briefly about my little brother who just got out of the Marine Corps. I thought it was a good thing he "got out when he did." And then I thought about

how "those people" over in Afghanistan might be the victims of a new breed of American terrorism. "Those people" and "their families" were probably frightened and terrorized too.

I didn't used to think a lot about New York or D.C. or Pennsylvania. I interviewed with a firm in Philadelphia this summer. I thought about Pennsylvania for a few weeks before and after that. For all intents and purposes, I really didn't consider myself to live in the same place as those people I know who live on the East Coast or the West Coast or in other countries. We live in different "places," and we exist at least mentally in these unique places on a daily basis. There's really nothing unifying about our existence besides the occasional visits, letters, post-cards, phone-calls, stupid spam e-mail jokes. We "keep in touch," or we "touch base" so that we can feel less separate but we don't live in the same "place" in any sense of the word.

But once I engaged in a cursory investigation of my degrees of separation from 9/11, I saw the connections. I lost the sense of disconnect that I otherwise deliberately maintain, that I don't live in the same "place" as "those people." I realized that those are "my people" and they are from "my place" where we all live uncomfortably closely together in "our world."

I have a cousin who worked at Morgan Stanley, in the South Tower of the World Trade Center. He escaped relatively unscathed after the plane hit his building. Another second cousin worked for the Department of Defense in the Pentagon. She didn't escape and she

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## Perspectives

### International Human Rights Financial Estoppel

By Philip Forsang Ndikum, WMCL-2L

United! Unité! Unidos! I have a vision for a United States of Africa. My work on International Human Rights started five years ago in England where I studied for an

LL.B (Hons). Whilst in England, I won a scholarship to study International Human Rights in Strasbourg, France. I graduated from both courses with highest honors and my work is greatly inspired by the political and legal super structures I acquainted myself with while in Strasbourg.

In the current draft of my book (*International Human Rights, United States of Africa*, supervised by Professor Michael Steenson, WMCL Professor), I set forth a vision for a United States of Africa, seeing its implementation through the prism of a human rights activist. My vision is that a United States of Africa will come about and sustain only when the process of African unity is carried out in the following order. First, Africans should use international human rights treaties and the rule of law to establish principles to impact the development of Africa. Once these principles are established, the rule of law and human rights will most likely guarantee a climate for economic prosperity. In this climate, political unity will be achieved and sustained as a matter of course.

While I clearly believe Africans must take charge of their destiny, I also believe, with good reason, that there is an international conspiracy by some developed nations to underdevelop Africa, thereby providing a climate for the perpetual exploitation of this rich continent with impunity. It is in this light that I am developing many legal principles to keep the international community in check. I strongly believe that these principles

should be used by the eight hundred million citizens of the United States of Africa to question financial and economic transactions that have the appearance of impropriety to the detriment of Africa. In my work, I express much hope in an African Bankruptcy Law and an International Human Rights Financial Estoppel Principle for Africa. I believe that a bankruptcy system and financial estoppel principles will offer the United States of Africa's citizens opportunities to take business risks and avenues to fresh starts when start-ups fail, thus creating opportunities necessary for the sustainable development of the United States of Africa and a viable financial system that will spur development. This article is meant to introduce a new rule of law I propose for international financial transactions - International Human Rights Financial Estoppel.

Citizens of the United States of Africa (developing countries, so to speak), can use this principle to enforce their newly acquired rights under International Human Rights Treaties. The new rule of law is a retroactive and prospective remedy for loans granted or acquired to promote cold war political agendas. The new rule specifically targets loans given to developing countries (African countries at that time, but now involving citizens of the United States of Africa) from 1960 to 1990 by the developed countries, i.e., the United States, Britain, Germany, and France.

The new rule is based on an international consensus that all peoples have a right of self-determination. (See the International Covenant on Economic, Social and Cultural Rights, G.A. res. 2200A (xxi), 21 U.N. Gaor Supp. (No. 16) at 49, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3, entered into force January 3, 1976.) By virtue of that right, they freely determine their political status and freely pursue their economic, social and cultural development. The new rule, International Human Rights

Estoppel, works like this:

When governments and financial institutions grant loans to rogue dictators and unscrupulous leaders in developing nations knowing full well or having the slightest reason to believe that these loans are siphoned into Swiss Banks and offshore accounts, and nevertheless accord additional loans to these same rogue dictators and unscrupulous leaders without evidence that the first loans had been properly appropriated, International Human Rights Estoppel must bar loan recovery.

In order for International Human Rights Estoppel to apply, I have developed an eight-part test. As propounded, the International Human Rights Estoppel rule of law applies if any five of these questions are answered in the negative:

**First**, are the parties who negotiated the loan agreement of equal financial strength?

**Second**, is the party granting the loan aware, or does it have reason to believe, that the government accepting the loan mismanages part and siphons some of the loan money to Swiss or other offshore accounts?

**Third**, were officials bribed at the time the loan agreements or financial transactions were entered into?

**Fourth**, is the loan agreement binding on citizens of the recipient country in perpetuity?

**Fifth**, is there a forum clause choosing a forum in the borrowing country or a neutral third country to adjudicate disputes arising out of the loan agreement?

**Sixth**, does the loan agreement designate a neutral third party to adjudicate disputes arising out of the loan transaction?

**Seventh**, did the lender apprise itself of international human rights treaties that require countries to take into account the welfare of citizens when conducting business in developing countries?

**Eighth**, did counsel representing the countries apprise parties of country conditions, expectation, and

perceptions of citizens of the United States of Africa regarding the impact of the loan on their rights?

These questions shall be construed strictly against the United States, Britain, Germany and France when those countries grant loans to the United States of Africa or other developing nations. These questions trigger the principle of estoppel in international finance because constructive trust principles apply. Under International Human Rights Financial Estoppel, advocates should note that it is malpractice to prepare international financial contracts without taking into account the expectations of citizens of the borrowing country and the human rights treaties that accord them a right to development. Citizens of the United States of Africa would, at last, have a principle in their legal arsenal to seek remedies for loans which of course did not benefit them in the cold war era in this "fix all" provision, International Human Rights Financial Estoppel.



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# Bigots Target School Children - Again

By Dan Gilchrist, WMCL-4L

In September 1957, angry adults violently blocked children from entering Central High School in Little Rock, Arkansas in the wake of *Brown v. Board of Education*. Federal troops cleared a path for the students to attend school. Pictures of that historic event evoke not only horror and resentment, but also bewilderment. How can adults harbor such rabid hatred and why do they direct it towards children? In September 2001, angry adults violently blocked even younger children from entering Holy Cross Girls Primary School in Belfast, Northern Ireland. Once again, bigots are violently tormenting innocent schoolchildren.

On Monday September 3rd of this year, girls aged 4 to 11 set off for the first day of classes at Holy Cross, a Catholic school. Angry Protestant mobs attempted to block their entry to the school because they did not want Catholics to walk on "their" streets. The Catholic school is located adjacent to a Protestant neighborhood. The adults hurled insults and missiles at the girls as they walked down a 300-yard portion of Ardoyne Road. Photographs of the terrorized children and their frenzied tormentors are shocking and they evoke memories of 1957. Sadly, the violence did not end on September 3rd. Each morning the innocent children faced growing mobs and heightened levels of terror. CNN Reported: "Police used clubs and shields to force a clear pathway for parents to escort their children, some as young as four, through the front entrance of the Holy Cross Girls Primary school." Over 200 stone-throwing bigots met 45 girls and their worried parents on the first two days of school. By the third day of classes, 100 of the school's 230 pupils went to school and braved the barrage. That day, September 5th, Protestant militants (the Red Hand Defenders) tossed a bomb at the children and their police escort. The bombers severely injured two policemen, but killed no one.

Anne Tanney, the head teacher at the school, said many of the girls arrived in "a terrible state of panic." Tanney told the Associated Press: "I'm really horrified and disgusted that this kind of thing could happen to children. To think that someone would throw a blast bomb is unbelievable." Unbelievable, but true. Amazingly, the bombing did not end the daily torment. No shame befell the Protestant mob. They continued taunting the girls throughout the next full week. No history lesson of the so-called "Troubles" can explain away the September 5th bombing or the daily harassment. But, as with Little Rock in 1957, history is the best source of understanding the hatred - inadequate as it may be.

England has exercised control over portions of Ireland for hundreds of years. In the Sixteenth Century, after centuries of colonization attempts, England expanded its domination over Ireland. Queen Elizabeth I, a Protestant, oversaw



increased persecutions of Irish Catholics. Oliver Cromwell's subsequent siege of Ireland in 1649 ended with massacres of Catholics in Drogheda and Wexford. Cromwell forced thousands of Catholics to relocate and stripped them of their land. By 1691, Protestant supremacy was sealed when English King William III defeated the Catholic forces of James II.

Catholics in Ireland suffered greatly in the subsequent period of British occupation, enduring laws that prevented them from bearing arms, holding public office and restricting their rights to an education. Landless Catholics died en masse during the famine of the mid-Nineteenth Century while British landowners stood by as observers. Later, after some rights were eventually restored, the animosity between Catholics and Protestants remained.

Irish Republicans (Irish Catholics supporting an independent Ireland) won partial success in 1921 with the Anglo-Irish treaty. This treaty awarded independence to 26 of Ireland's 32 counties. Those 26 counties became the Irish Free State and later the Republic of Ireland, the capitol of which is Dublin. The other six counties remained under British control as Northern Ireland, with Belfast as the capitol. This partition proved a workable compromise until the 1960's when the Troubles erupted in Northern Ireland between the Catholic Republicans and the Protestant Loyalists.

Like African-Americans in the United States, Catholics in Northern Ireland took to the streets in 1968 to protest discrimination in voting rights, housing, and employment. Heavy police crackdowns followed. British troops joined the assault on Catholic protestors. The most infamous attack happened in 1972 when British troops fired upon Catholic demonstrators, killing 14. The massacre, dubbed "Bloody Sunday," was memorialized by U2's song "Sunday, Bloody Sunday." A war of sorts followed between the Irish Republican Army and British Loyalists. Many innocent civilians were killed in acts of terror. Neither side's hands were clean.

In the late 1990's, peace talks yielded promising results. Britain agreed to allow Northern Ireland to once again rule itself under a Catholic/Protestant power sharing agreement.

The Irish Republican Army agreed to disarm. The promise of a peaceful future slipped away however. The smoldering mistrust and hatred resurfaced. The sad result is that in the year 2001, young girls were besieged by shouting, spitting, stone throwing, and a firebomb on their way to elementary school.

## Spouse's Sidebar

By Mike Henderson

Students and staff at William Mitchell are blessed to have their school situated in such a lovely part of St. Paul. The icing on the cake would have to be the variety of great eateries within just a few blocks of school. For those nights when you are lucky enough to have time to dine together, I'll tell you about a few of my favorite places near school to refuel, recharge and relax with my favorite student.

Since I mentioned cake, let's start with the restaurant that was the deciding factor when it came to where my spouse would end up going to law school. She'll tell you she chose William Mitchell for its great reputation and honorable professors, but make no mistake about it, **Café Latte's** German chocolate cake sealed the deal. A bowl of the spicy chicken chili before the barrage of baked goods is a great way to spend a winter hour. If tuition included a daily meal at Café Latte, I'm sure William Mitchell would skyrocket to the top of the "Best Law Schools in America" list.

Every hard working student (and his or her significant other) needs a cold beer and plate of hot fries now and then, and for that **Billy's** is ideal. During the warm-weather months Billy's has a lively deck that makes it easy to forget about that past-due term paper. Inside, Billy's has pool tables, dart boards and plenty of cold beer to take your mind off of school.

For me and my significant other, nothing beats a significant slice of pizza from **The Italian Pie Shoppe**. The sauce is boss at this unpretentious pizza joint, where they excel at both thin crusted and stuffed pizzas. Their large pizza paired with an old fashioned vanilla coke makes for a relaxing evening. The Italian Pie Shoppe also has outdoor seating to calm "classroom fever" on warm September days.

Just a few blocks behind William Mitchell is **Costellos**, St. Paul's version of Cheers with above-average bar food and spicy bloody marys. It's a friendly, neighborhood place, though if you walk in and everybody knows your name, you're probably spending too much time in the bar or you did something embarrassing the night before.

Just down the street from Costellos is the romantic **W.A. Frost**, with one of the city's best outdoor eating spaces. The terraced patio is a great place to get to know each other again after a long semester. Indoors, the bar serves a limited selection of food, including a terrific cheeseburger that you won't find on the menu. It's a cozy spot to talk about anything other than student loans, exams or class rank.

**Bamboleo** is a new Latin-themed restaurant with warm red walls, soft candles and high-backed

booths. They have several tasty yet potent rum drinks of which the Rum Bamboleo was my favorite. After two of these drinks you'll wish you were in the Caribbean, and after three Rum Bamboleos you'll think you are in the Caribbean. The El Cubano sandwich is humongous and very good. The leftovers alone will get you through the next two days of dinner-for-one while your spouse is in class.

Often my spouse and I find that the only thing that will get us through a grueling week of work and school is the promise of icy margaritas and cheesy enchiladas on Friday night. To satisfy that craving, we head to **La Cucaracha Restaurante**. The service is always good, as is the food. It's a nice escape from the cold of winter, the heat of summer or whatever other hardship you need to escape from in order to justify blowing your diet. (We've learned to be creative with our justifications!)

Down Grand Avenue towards the bright lights of Minneapolis is **Red Fish Blue**. This is an inexpensive seafood restaurant with dazzling, colorful walls and a nice selection of fresh fish. Don't go for a stiff drink since the restaurant is too close to a school to be able to serve hard liquor. Instead, enjoy your fish tacos with a cold beer or glass of wine (but take my advice and skip the wine-based margarita.)

This brings me to my last selection, **The Lexington**. This long standing supper club is a throw-back to the days of Sinatra and the Rat Pack with terrific steak and potato dinners in an inviting setting that is a timeless treasure. It's a great place to dress up a bit, and celebrate graduating, finishing a semester, making it through a Wednesday, remembering your locker combination... I was my spouse's witness for the final trial in Lawyering but was able to block out the entire experience thanks to post-trial drinks and dinner at The Lexington. Now that's a restaurant!

Remember, be creative with your justifications and enjoy these unique restaurants in the William Mitchell neighborhood.

### Café Latte

850 Grand Avenue

### Billy's On Grand

857 Grand Avenue

### Italian Pie Shoppe

777 Grand Avenue

### Costello's Bar and Grill

393 Selby Avenue

### W.A. Frost

374 Selby Avenue

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# FORUM RELIGION POLITICS

## Jihad & Terrorism— An Islamic Perspective

By Hassan Ali Mohamud

(Interview by Jennifer Macaulay)

Mr. Mohamud is a WMCL student and Imam of Al-taqwa Mosque, located at 804 University Avenue West, St. Paul, Minnesota 55104. He participated in the panel discussion, "Responses to Terrorism: Policy and Human Rights" which took place October 16th in the William Mitchell Auditorium. Below, Mr. Mohamud answers some questions posed by Jennifer Macaulay. In the adjacent article, he outlines some of the fundamentals of Islam.

**Q.** We all know better than to judge others merely because of their nationality or their religion. The problem we encounter is that many of the terrorists responsible for the World Trade Center attack, including bin Laden, believe they are following God's will. Are they lying? What are they talking about? How do they come to this conclusion?

**A.** In Islam, we have the concept of fate or destiny or God's will. It means nothing will happen in this world except with God's knowledge. For example, Almighty God

knew that the WTC would be attacked, but we human beings did not know this because of our limited knowledge. We just found out September 11, 2001 when the incident happened. In Arabic terms, this is called "Al-qadar" or destiny or fate. In other words, it was in God's plan. The next question is how can we interpret the action of the human beings who made this happen, whether they are Jews, Moslems, Christians or others? First, Islam says everyone is responsible for his or her actions - good or bad - and he or she will be accountable before God in the Day of Judgment. This means the human being is given free will (within God's will) to act and therefore he or she cannot make mistakes and then use God's will as an excuse. For example, it is told that the Prophet Mohamed and his companion once made a mistake and Allah (God) revealed a verse of *Koran* saying: You (Mohamed) and your companion are responsible for the mistake. (*Koran*: Chapter 4, verse 165.) Therefore, killing innocent people and destroying buildings, homes and human civilizations cannot be justified using God's will as an excuse. Whoever instigated the attack, they did it for a purpose and they must be brought to impartial and international justice when the collection of genuine evidence is completed. As far I know, Islam, Christianity and Judaism are not religions of violence.

**Q.** How is our Moslem community in the Twin Cities reacting to this new war against terrorism? Could you summarize the reaction you've seen?

**A.** The Moslem Council of Minnesota, which represents most of the Twin Cities' Mosques, does not approve of this war because we do not think violence and revenge are the appropriate answers for the tragedy of September 11, 2001. There are other ways to bring suspects to justice without more loss of life. As religious leaders, we believe that the soul of the human being is the most sacred creature on the earth and that it must be protected from harm. (*Koran*: Chapter 15.) Therefore, violence is not the solution.

**Q.** What sort of response do you think your religion would dictate to terrorism? For example, Christianity might instruct that we should do unto others as we would have done unto ourselves. Christianity is a peaceful religion too, but it still allows for a "proportional response" to violence...i.e., an "eye for an eye, a tooth for a tooth."

**A.** Islam also has the concept of an "eye for an eye," but at the same time, one of the meanings of Islam is peace. The Taliban itself condemned the act of terrorism of September 11, 2001. In Islam, we have the concept of Jihad which is to fight against injustice, oppression, terrorism and any evil act that harms the existence of human beings, the manufacturer of civilizations. Jihad, however, has rules, principals and standards that must be met before an Islamic state may call for it. Therefore, the first step is to find out the most peaceful means for the world community to bring the suspects to court. It is up to the world community to explore

those means. I cannot see that we Americans, or any other country, could come up with a single-minded solution without input from the rest of the world. For example, if the suspects were Jews, the world community should consult with the Jewish scholars, their communities, their representative members of the world community, the state of Israel and any other important group or person who could participate to set up an international standard for a solution because we are fighting against international terrorists. Right now, I do not think the coalition has a strong basis to fight against world terrorists because there are divisions among them in terms of defining who is a terrorist and how to best fight terrorism. Many voices were not heard prior to the October 7th attack on Afghanistan.

**Q.** If the United States is truly intending to eradicate the Taliban government in Afghanistan, is it possible for Moslems to support this action? Is this consistent with your faith?

**A.** It is not possible for Moslems to support America's attempts to eradicate the Taliban government for the following reasons:

First, on this earth, no religion permits the eradication of an ethnic group, a nation, a state or even a small tribe. The purpose of all religions is to protect the life of human beings in order for the world to continue to exist. If there are evil individuals, there are means to correct them even if it means eliminating that individual, but not the

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## America Prays

By Tracy Harris, WMCL-2L

Following the tragedies of September 11th prayer permeated our nation. Remarkably it permeated our government as well. After all the legal warfare to keep religion out of government, the humanistic philosophy inspiring that movement did not seem to matter to a hurting people who needed comfort beyond human. No line separated church and state as our President and members of Congress called upon God. Any gains by the American Civil Liberties Union at squashing religious speech in the public arena were undone for a time. When our nation was shaken, many once again humbly acknowledged our arrogance and insufficiency.

The Establishment Clause of the First Amendment proscribes Congress from making laws that respect an establishment of religion or prohibiting the free exercise thereof. Though Congress is explicitly forbidden, the judiciary seems to think it is not. Several court decisions have abrogated our fundamental right to religious speech at civic activities and within public forums, calling it unconstitutional. The real conflict concerning the Establishment Clause is not in discerning the spirit of the law, nor does it concern the correct interpretation of the plain meaning of the text; it is about control. This is obvious in our schools where, against the beliefs held by parents, children are taught that evolution is

a fact. No other options are presented because that would be "unconstitutional"—there is one belief asserted. Instead of advocating for "religious liberty," the courts have attempted to establish a national belief system of secular humanism where God is no longer welcome.

Nevertheless, the Establishment Clause did not stop religious invocations under the rotunda after the terrorist attacks. Senator Jon Kyl (R-AZ) prayed: "The message again is to turn to God. He alone has the answers." Representative John Lewis (D-GA) was also not intimidated when he publicly prayed in a government building and in his capacity as an elected government official: "Our people are hurting, help us, oh God. See us through this storm and hold us in the palm of your powerful hand."

In the wake of crisis, a nation turns to God. Attempts at resisting our souls' inclinations toward public prayer, no matter the forum, deserve the same response given by a Pharisee among the teachers of the law in the first century concerning religious speech in the public squares: "[I]f this plan or action is of men, it will be overthrown; but if it is of God, you will not be able to overthrow them; or else you may even be found fighting against God." (Acts 5:38-39)



## A Meeting of the Minds

By Patrick W. Ostergren, WMCL-4L

When St. Francis of Assisi (1182-1226) met with Sultan Malik al-Kamil (1180-1238) during a lull in the Crusaders' siege of Damietta in the Nile Delta in September 1219, it was truly a meeting of the minds between two faiths that preached tolerance. Both men were labeled fanatics by the Christian establishment. Nevertheless, both men commanded movements rivaled only by the spread of Catholicism.

The explosion of "Franciscanism" in the Thirteenth Century and the rapid spread of Islam from the Seventh Century onward propagated a faith in a single God. Both faiths preached tolerance and understanding. A true Christian walks in the footsteps of Jesus as Francis did. A true Muslim shares the simplicity that Francis preached and is tolerant of other faiths. To become a Muslim, one must only say: "There is no God apart from God, and Muhammad is the Messenger of God."

That declaration is essentially the same as the Council of Nicea's famous declaration still uttered today at every Christian service: "I believe in one God, the Father almighty - maker of heaven and earth - and in Jesus Christ his only son, born unto the Virgin Mary."

The prophets' names may be different but the complete devotion to a single God is the same.

Today, just weeks after the attacks

on this country, and our subsequent attacks on Afghanistan, books about Islam are flying off the shelves. It is important for Americans to know about Islam. However, our desire to understand Islam may have come too late and for the wrong reasons. I fear the rush on books about Islam is more an effort by Americans to size up an enemy than to truly understand another faith.

As Roger Du Pasquier said in his book, *Unveiling Islam*: "The West, whether Christian or de-Christianized, has never really known Islam. Ever since they watched it appear on the world stage, Christians never ceased to insult and slander it in order to find justification for waging war on it. It has been subjected to grotesque distortions, the traces of which still endure in the European mind. Even today there are many Westerners for whom Islam can be reduced to three ideas: fanaticism, fatalism and polygamy."

The irony of America's suspicion about the Islamic world is that Christianity has had a relationship with Islam since the time of the Prophet Muhammad. The three great religions of the Middle East all share the same foundations. Islam, Christianity, and Judaism are religions inspired by the same God, born in the same land, shared by the same people and transcending the same faith.

Islam is not some foreign concept

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# Fundamentals of Islam

By Hassan Ali Mohamud

## ISLAM

Islam has two meanings: Whole submission to the will of Allah (God) (religious meaning); and whole meaning of peace (linguistic meaning). People who follow the religion of Islam are called Moslems. Important Islamic beliefs are divided into two parts. The first part is the Five Pillars of Islam, which are (i) to witness the existence of one God (Allah) without equal or partner, who created and maintains the world and to also witness that the prophet Muhammad was the final prophet and messenger of Allah; (ii) to pray five times a day; (iii) to give two and one-half percent of one's annual saving income in cash or in kind to charity; (iv) to fast from dawn until dusk every day during the month of Ramadan (the ninth month of Islamic lunar calendar); and (v) to make a pilgrimage to Mecca, Saudi Arabia at least once if it is affordable.

The second part of Islamic belief is the Six Pillars of the Faith (Iman) which are: (i) to believe in one God (Allah); (ii) to believe in all prophets from Adam, Noah, Moses, Jesus and Muhammad as a final prophet and Messenger of Allah; (iii) to believe in all books God sent to humans through the prophets including *Torah* of Moses, *Injil (Bible)* of Jesus and *Koran* of Muhammad; (iv) to believe in all angels, including Gabriel, and that two angels attend every person; one records sins and the other, good deeds; (v) to believe the fate and the destiny of every creature is planned by God (Allah); and (vi) to believe in the Day of Judgment.

## ISLAM AND OTHER RELIGIONS

Islam teaches that Moslems,

Christians and Jews are people of the book. This means that these religions share basic beliefs articulated through three holy books: the *Koran*, the *Bible* and the *Torah*. One function of Islamic law is to protect the privileged status of minorities. Islamic law permits non-Moslems to shape their own courts which implement family laws drawn up by the minorities themselves.

## FIVE RULES

The Five Rules dictate the actions of Moslems. These rules are: (i) the Mandatory Rule which dictates what the obligations are (e.g., the five daily prayers); (ii) the Permission Rule which dictates what is permitted (e.g., everything that is not prohibited by rule five); (iii) the Recommended Rule states what is recommended (e.g., to smile every day); (iv) the Non-Recommended Rule which states what is not recommended (e.g., staying up after night prayer or after eight o'clock at night); and (v) the Prohibited Rule which says what is prohibited (e.g., alcohol).

## THE FIVE SACRED ASPECTS IN ISLAM

In Islam, the following five aspects must be protected: (i) the human being; (ii) religion; (iii) family; (iv) wealth; and (v) honor. The most important creature is the human being. (*Koran*: Chapter 17).

## FOOD & DRINK

In Islam, it is prohibited to eat and drink anything related to pork or alcohol.

## DRESS

In Islam, women should wear *hijab*, which is to cover their body except for the face and hands. Men should wear a dress that covers between the

waist and knees.

## WOMEN

In Islam, women and men are equal and they both came from single soul. Sura 4, Verse 1 (*Koran*).

## MAIN HOLIDAYS

Moslems celebrate two main holidays: The first one is the end of Ramadan, the fasting month, and the second one is 10th day of the last month of the Islamic lunar calendar.

## GREETING

Woman cannot shake a man's hand and vice-versa, except in exceptional cases. For example, a man may shake the hand of his sister.

## EDUCATION & SCIENCE

The first verse that Allah revealed is about education. Therefore, each Moslem is required to be educated.

## WORK

One must work for his or her daily life in order to be forgiven by Allah. In one instance the prophet Muhammad kissed the hand of the man who just came back from work.

## ARTS

In Islam, art is generally acceptable except if it is against the principals of Islam. For example, one may not draw a nude person or sing a sexually explicit song. In Islam, art should provide messages that develop human life.

## SOURCES OF ISLAMIC LAW

The four main sources of Islamic law are the following: (i) the *Holy Koran*; (ii) *Sunna* (the tradition or a record of deeds of the prophet Muhammad); (iii) *Ijma* (consists of the consensus of scholars on particular problems for which the solutions cannot directly be found from *Koran* and *Sunna*; and (iv) *Qiyas* (reasoning by analogy and applying to all other problems for which the solutions cannot directly be found from the

other three sources).

## AL-JIHAD

Jihad is an important concept in Islam. In Arabic, it means strive, struggle and exert effort. It is a central and broad Islamic concept that includes struggle against visible and invisible evil (within oneself), struggle to improve the quality of life in society, struggle in the war-field for self defense, struggle to defend a religion or its people, or fighting against aggressors or oppressors or injustice. The Islamic government has authority to call for Jihad, the leader of the Islamic movement may call for Jihad in the absence of Islamic State, and other rules may apply.

## RULES OF JIHAD IN THE BATTLEFIELD

During Jihad, it is prohibited to kill children, women, patients, elders, priests, Rabbi, or any other worshipers and animals. It is also prohibited to torture soldiers if they are injured. It is prohibited to destroy houses, farms, water pipes, electrical pipes, and wells. It is also prohibited to run after the one who runs away from the battlefield.

## ISLAM AND TERRORISM

Islam is the religion of peace not violence. (*Koran*: Chapter 2)

Therefore, Islam does not support terrorism under any circumstances.

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# Congress Must Thwart Justice's Power Grab



PHOTO COURTESY OF WMCL PUBLIC RELATIONS

By: Peter Erlinder, Professor of Law, William Mitchell College of Law and past president of the National Lawyers Guild.

[This article is reprinted with the permission of the Minneapolis Star Tribune, which originally published the article on September 27, 2001.]

In his speech to Congress last Thursday, George W. Bush was brutally frank in preparing the American people for a very long "war against terrorism and evil."

Spokespersons for the Bush administration have repeatedly reinforced the message that, even if Osama bin Laden is located and Afghanistan is punished militarily, it will take many, many years to ferret out other "terrorists" who are scattered across the globe, and who often look and act like anyone else.

This apparent candor was refreshing from Washington politicians, who

are known to offer a "quick fix" to complex problems in the interest of short-term political gain.

However, Attorney General John Ashcroft had a completely different message when he appeared before a congressional committee on Monday.

According to Ashcroft, the threat of politically motivated domestic violence was so great that the House Judiciary Committee has to "act immediately" to pass the sweeping "anti terrorism" laws the Justice Department submitted to Congress less than a week ago. The new law:

- Grants vast new powers to the attorney general himself to seize properly documented noncitizens without meaningful judicial review.

- Allows greatly expanded electronic surveillance of all Americans and their computers, without traditional judicial oversight.

- Allows indefinite incarceration of legal noncitizens without trial.

- Allows secret searches of all homes and offices.

- Allows the seizure of property of anyone suspected of crime, even if it was not related to "terrorism."

- Defines "terrorism" so broadly that it would include many acts that, until now, have been considered minor crimes or acts of civil disobedience. Throwing a rock could result in

a life sentence.

Not since President Richard Nixon claimed unrestricted authority to carry out wiretapping and electronic surveillance in the name of "national security" has any administration sought such broad investigative power. Even without considering the implications of the new Office of Homeland Defense, the Justice Department is proposing nothing less than the elimination of many of the checks and balances between executive and judicial branches of government that have been claimed to be the genius of the American system.

Earlier, hastily passed "antiterrorism" laws provide evidence that these proposals require thoughtful deliberation before they are imposed on the American people. President Bill Clinton's Justice Department pushed a Republican Congress for rapid passage of the 1996 Antiterrorism Law to combat "foreign terrorist organizations" in the week following the Oklahoma City bombing. Only after Clinton signed the 1996 "Antiterrorism Bill" into law did we learn that it was Timothy McVeigh who had committed an act of domestic terrorism, not the "foreign terrorists" targeted by the bill. Under the 1996 law:

- Legal noncitizens can be arrested, detained and deported based on "secret evidence."

- American citizens can be threatened with 10 years in prison if they

make a donation to the wrong foreign humanitarian program.

- Completely legal U.S. organizations can be effectively shut down by having their assets seized, based only on the accusation that the U.S. group has ties to an outlawed foreign group.

The impact of the 1996 law on civil liberties is being felt by people of Middle Eastern origin -- more than 25 people already have been locked up for years without knowing the evidence against them. As the administration's "either you're with us, or with terrorists" policy is applied on the domestic front in coming months, antiwar dissenters of all nationalities will likely feel its impact, too.

Just like the Bush administration, the Clinton Justice Department also argued that quick passage was necessary to give the government the "tools to combat terrorism." Unfortunately, we have learned that, in spite of the broader governmental power created by the 1996 law, the "tools" undermined civil liberties but were unable to prevent the loss of life on Sept. 11. To his credit, Ashcroft admitted in Congress that his proposed Antiterrorism Law of 2001 could not have averted the tragedy either. If this is so, and the "war" will be protracted, why the rush to change the checks and balances on which our entire system of government is based, without a reasoned public debate on the benefits and

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## Attack on America...

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### Afghanistan

Afghanistan has a population of almost 27 million people and is approximately the size of Texas. The country suffers from enormous poverty due to many years of war. The average life expectancy is 46 years and the literacy rate is 31.5%. Afghanistan's primary export is opium, which is used to make heroin. Its exports in 1996, not including opium, were \$80 million and its imports were \$150 million.

Afghanistan was invaded and occupied by the Soviet Union in 1979. After ten years of fighting, the Soviet Union withdrew. At least a part of the anti-communism support came indirectly from the United States through supplies and training. After the Soviet withdrawal, fighting continued in Afghanistan. To this day, Afghanistan does not have a stable political system. The Taliban government currently controls 90% of Afghanistan. The United Nations and all but four nations refuse to recognize the Taliban as a legitimate government.

### The Taliban

The Taliban are a group of Afghan Islamic fighters trained in religious schools in Pakistan. Many of them fought against the Soviet Union's occupation of Afghanistan. The Taliban formed as a group in 1994 and took over the Afghanistan capital city of Kabul in 1996. The Taliban have proven they are able to fend off the various *Mujahedin* warring factions of Afghanistan.

The goal of the Taliban government is to set up the world's most pure Islamic state. The government implemented this agenda by banning television, music and cinema. The Taliban government enforces laws by public executions and amputations and it has created many laws to prohibit women from working, receiving an education, and from receiving certain types of health care. The government also requires men to have beards longer than their fist and women must be fully covered when in public.

The spiritual leader of the Taliban is Mohammed Omar. Omar lost his right eye in the 1980's while fighting against the Soviet Union. It is believed that Mohammed Omar's home was purchased for him by Osama bin Laden and that bin Laden played a large role in financing the Taliban take-over of Afghanistan. Omar's close friendship with Osama bin Laden has isolated him and his country from the rest of the world. Mohammed Omar is greatly removed from the public and leaves contact with the public to his foreign minister, Wakil Ahmad Mutawakkil.

### The Region Surrounding Afghanistan

Afghanistan is bordered in the West by Iran, the South and East by Pakistan, and the North by the former Russian states Uzbekistan, and Tajikistan.

Pakistan is one of the only countries to recognize the Taliban as a legitimate government. The Pakistani government has stated that it supports a fight by the U.S. against terrorism but will not join in military

action against Afghanistan. Pakistan has also said that it will not become a safe haven for Osama bin Laden.

Iran condemns attacks by the U.S. on Afghanistan but urges the United Nations to fight against terrorism. Iran will not allow U.S. planes in its air space for retaliatory strikes and will not join a U.S. led coalition.

Uzbekistan will allow the U.S. to use of one of its air bases for humanitarian purposes. Tajikistan said that it supports the U.S. but has not stated how it will show its support.

Additionally, Saudi Arabia recently severed diplomatic relations with Afghanistan to show its support for the U.S., and Turkey offered the U.S. use of its air bases and air space in retaliatory strikes.

### U.S. Retaliation for the WTC Bombing

The first wave of American air strikes began on Sunday, October 7, 2001. The U.S. sought to secure air supremacy by bombing all but one Afghan air base, any ground air defense facilities and al Qaeda terrorist training camps. Additionally, the U.S. is said to have bombed the residential compound of Afghan spiritual leader Mohammed Omar. The Taliban ambassador to Pakistan asserts Omar is still alive.

The U.S. asserts it has now achieved air supremacy in Afghanistan and can bring about air strikes around the clock. The difficulty in attacking the Taliban is that there are no clear target areas. The government has no central military or civilian areas. Based on Russia's defeat, it appears to be difficult to attempt to establish a regime in

Afghanistan. America can easily launch missiles from submarines and air craft but ground maneuvers would be difficult in Afghanistan due the rugged terrain. In order to specifically target Osama bin Laden, Special Forces will probably be necessary. Special Forces are described by the U.S. defense as those forces capable of performing extremely difficult, complex, and politically sensitive missions on short notice, in peace and in war, anywhere in the world. In this post-September 11th world, each passing day presents extremely difficult, complex and politically sensitive problems in a time of fear and uncertainty in the world. Godspeed to the Special Forces and everyone else involved in the resolution of these problems.

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## Faculty Support...

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for public service scholarships and others are considering endowment gifts for this purpose. The amount of annual income from these endowment gifts, however, although significant, is fairly modest. A \$100,000 endowment, for example, yields only \$5,000 of spendable income per year under our current policies.

Last fall I discovered that Vice Dean David Prince and Associate Deans Matt Downs and Deborah Schmedemann share my interest in increasing William Mitchell's LRAP assistance. We also share an interest in increasing the number of Public Interest Law Fellowship (PILF) summer clerkship stipends available to our students. Currently students raise enough money, primarily through a silent auction each spring, to support two PILF summer stipends. The four deans put together a challenge grant proposal to the faculty. We agreed to contribute \$1 for every \$2 the faculty contributes for LRAP grants and PILF summer stipends over a five-year period (this corresponds to the time frame for pledges to the Centennial Capital Campaign).

Professors Ann Iijima and Eric Janus were in charge of soliciting the faculty and they did a superb job. The results have exceeded our expectations; and we are very pleased, even though we now have to give the maximum amount we stipulated in the challenge proposal! For this year the total faculty LRAP contributions will be \$30,000. This money will be donated

to LRAP-MN, which will make LRAP grants to eligible William Mitchell graduates. These grants will be in addition to the LRAP grants already made to William Mitchell graduates by LRAP-MN. The faculty contributions will also fund two additional PILF summer stipends for William Mitchell students in the summer of 2002, one for a public interest placement in the Twin Cities and a second for a placement in greater Minnesota.

Thirty full-time faculty members have contributed so far to this effort. Our faculty, individually and collectively, has always been very supportive of *pro bono* and other public service efforts. Their extraordinary contributions to this program are truly awesome. I am proud to be a member of a faculty that really "walks the talk." I don't know of another law school faculty in the country that has made gifts of this magnitude for LRAP and PILF grants.

The faculty contributions to this challenge grant will not only help William Mitchell students and graduates, but also will provide an example for our graduates and others to contribute annual and endowment funds for LRAP and PILF grants.

In a future article I hope to provide you with biographical sketches of the grant recipients. This will enable all of us to appreciate more fully the importance of gifts like this for our students and graduates in public interest employment and the important contributions they make to the justice system in Minnesota.



## Jihad And Terrorism

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group. Therefore, I think not only Moslems, but also Christians and Jews will never support the eradication of one group of human beings such as the Taliban government.

Second, In Islam, the *Koran* (the Moslem holy book) says all Moslems are brothers and sisters so they must protect each other. Therefore, the Moslem world is responsible for protecting the Taliban in one of two ways: (i) Moslems must support the Taliban if it is right or just, or (ii) Moslems must stop the Taliban's hand if it is wrong and harming others for no reason. In Islam, there are processes to stop the wrong-doers. The last resort is to fight against Moslem wrongdoers if they don't conform. Right now, I think that Moslem scholars and the Moslem world would set up a process to stop the Taliban and their wrong action if we (world Moslems and others) agree that they are wrongdoers.

Finally, the Taliban is still the recognized government in Afghanistan so its sovereignty must be respected.

**Q.** If it were okay for the United States to eradicate the Taliban government, then would it be okay for the Taliban to eradicate the United States government?

**A.** I would say it is not okay that either one be eradicated.

**Q.** Scholars and reporters have hypothesized that this movement of extremist terrorists (who happen to be Moslem) began in refugee camps,

when people were starving, dehydrating and watching their children die. Do you think this is what happened?

**A.** I have Afghan members in my Mosque in St. Paul and they did tell me that if the Taliban receives world support, its government will make Afghanistan's dream real. From what I've seen and heard, the Taliban government is the only group to successfully control most of Afghanistan (about ninety-five percent). In terms of their interpretation of the *Koran* and *Suna* (the tradition of the prophet Muhammad), it depends on the school they are coming from. In the Moslem world, we have two Islamic schools of thought: moderate and non-moderate. Both of them enjoy respect in the Moslem world although moderate trends are more popular. I've heard about the restrictions made by the Taliban with respect to the liberty of Moslem women in terms of education, work, and other activities. Let me say this: Islam permits women to go to school, to work, to do all daily life activities according to Islam. Even if the Taliban appears extreme on women's issues, consider Saudi Arabia: women cannot drive, go to school, be members of parliament or heads of state departments. They have no voice in the society. Some Saudi scholars even believe that women's voices should not be heard by strangers, i.e., that women should not speak in the presence of men other than their fathers, husbands, brothers, uncles, etc. Does this mean we should eradicate Saudi Arabia?

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## Alumni Corner: Life After Law School

By Kristi Angus, WMCL '98

Life after law school isn't how I imagined. I was an "older than average" student entering William Mitchell in the fall of 1994. Unable to find a teaching job after four years, and unwilling to stay at my job as an insurance adjuster, I decided to put my efforts into a new career. I thought that with my background I could market myself in the insurance defense field.

Seven years later, I'm teaching Mass Communications and advising the student newspaper at a rural Community College. How did that happen?

I did the normal things law students do. I got a clerking job – at a personal injury firm; they appreciated my insurance background. I had fun with the client counseling competition; my partner and I even made it to the regional competition – twice. I moved to an insurance defense firm. They appreciated my insurance background AND my clerking experience. I was even getting good grades! Everything seemed to be falling into place.

But unforeseen events can affect jobs, priorities and perceptions. My daughter was born (on the last day of finals) during the fall semester of 1996. My mom died eight days later. I ended up with postpartum depression, albeit a minor case. I took some Prozac and recovered. And though my ability to do well in school and my ability to parent didn't suffer, my relationships at work did. I was informed I wouldn't have the oh-so-elusive offer I had hoped for.

I've always had an optimistic view of life, and I bounced back from that fairly well. I did the OCI thing (on-campus interviews), to no avail. And

then my husband and I decided maybe we'd raise our family out-state. We were both from the "lakes area" and tired of the rush-rush of city life. Our priorities had changed.

At the time I interviewed for my first job, I was pregnant with baby #2. I got the job and we made plans to move after the bar exam. What a relief to have a job before graduation! Once again, everything seemed to be falling into place.

Four days after celebrating the fact that I passed the bar, my son was born. I've read that major life stressors (a move, a job change, a baby) can predispose one to depression; so can a prior episode of postpartum depression. Perhaps the combination of all of the above sent me spiraling down. By the time I was supposed to return to work from maternity leave, I was in the depths of a major depression.

It took nearly a year and a new job to feel normal again. I began work for Legal Services of Northwest Minnesota in November of 1999, working under a grant from the Violence Against Women's Act. All my clients were domestic violence victims. Most people thought it strange, but I loved my job. I didn't make a ton of money, but I got to help women who really needed help, when they needed it. Most of my clients were unbelievably scared at the thought of leaving an abusive partner, because of financial constraints, children in common, or fear that leaving would not end the abuse. I was their support when they needed someone to trust, someone who could reassure they would likely retain custody, and sometimes someone just to vent to about the situation.

I got to go to court nearly every week, mostly handling Order for Protection hearings. They became routine, except for the fact that the adrenaline rush from a successful cross-exam, or a well-spoken closing argument never went away. It just built my confidence.

I had my first trial -- a three-day trial. WOW! A landmark point in any attorney's career. I was certainly glad my client was the respondent – it gave me a day and a half to watch, learn, and object, before I had to present my client's case. Then, of course, I had to deal with opposing counsel's objections against me.

The best part about that job was the hugs. Yes, the hugs. When I successfully obtained an OFP for my client, secured supervised visitation, or succeeded in the court's awarding my client's request to move out-of-state with her child, I got hugs. That probably doesn't happen in your every day real estate transaction. I had a job I truly enjoyed. Every day was a learning experience. I worked with people I enjoyed and, for the first time in my working life, I had only one W-2 to file with my income taxes.

But, as I've said, life can throw curve balls – and I was still at bat. In October 2000, I was diagnosed with Interstitial Nephritis – kidney failure – caused by an allergic reaction to medication. A kidney transplant seemed imminent.

Although my kidneys recovered somewhat (they operate together at 30%), the damage was permanent. Doctors believe a transplant is inevitable because of my age (the kidneys can't function at 30% forever, and I'm only 32). It became clear that I no longer had the stamina to practice law – at least not full time. I wrapped up loose ends at LSNW, including an appellate case I got to argue at the Court of Appeals. But

living in a rural area makes truly part-time work unfeasible.

Any attorney knows that adversity does not mean giving in. Rather, it means moving on – doing whatever is necessary to overcome that obstacle.

Once my condition stabilized (and I was going nuts being at home every day), I secured a long-term substitute teaching position as an English teacher at the local high school, teaching just three classes a day. The schedule seemed to work well with my medical restrictions. But how ironic! It was my inability to find a teaching position 10 years ago that led to my choice to attend law school.

During this time, a friend told me that Fergus Falls Community College was looking for adjunct instructors. Although I didn't have a Master's Degree, they liked my background and I started teaching this fall.

I work 10-15 hours a week – maybe a little more if it's a week when the paper comes out. Outside of class time, my office hours and preparation time are flexible. My children, now 3 and almost 5, spend minimal time in day care. I honestly have the best of both worlds – a lot of "stay-at-home" mom time and an intellectually stimulating job. Clearly, my perspective of what makes me happy has changed.

I still try to offer help to the local crisis center when I can. Perhaps someday the part-time law thing will work out. If it does, I hope I can return to serving domestic violence victims.

I don't know what the next obstacle in my life will be (now that both of my kids are potty-trained). I do know, however, that it is not the obstacle itself, but instead how I choose to deal with it, that is most important.

So what if life after law school isn't how I imagined?



## Random Thoughts

The Complete Idiot's Guide to the World, for Dummies

By Chris Frank

I am almost there. I am in my last semester of law school. I can see the light at the end of the tunnel. I should be ecstatic. I should be proud. Instead, I find myself in the self-help section at Barnes & Noble, reading titles like "How to Learn Piano and Spanish in 5 Days with a new Bonus Chapter on the Meaning of Life, FOR DUMMIES" or "The COMPLETE IDIOT'S GUIDE to Being Richer than Bill Gates and Still Spending More Time Watching Football than Doing Any Other Activity." Why have I toiled for three long years over the minutiae of law when I could have accomplished so much more by reading just a couple of these "How To" books? The instruction manuals to everything anyone could ever hope to accomplish are right here in front of me - written so simply that even Idiots and Dummies can succeed.

I try to decide which category will bring about the greatest results: The Idiot category or the Dummy category. I am searching for the title

"How To Do Anything Besides Practice Law." It is not here, but I find "How to Make a Zillion Dollars for Dummies" and "The Complete Idiot's Guide to Making Zillions." I ask myself why Idiots are able to make zillions, while Dummies are only able to make one zillion. Which category do I fit under? I want to find out so I buy both books and go diligently to work.

I follow the instructions carefully. Step one requires me to start with something simple. The Internet, they say, is a level playing field, so I register a website: Influenceclub.com. (I came up with the name after discovering Chris.com was already taken. It sounded like a name of something that would make at least a zillion dollars, maybe even zillions.)

"The Idiot's Guide for Avoiding Any Realistic Examples for Making Money" says a successful business needs pizzazz. It needs something to draw people in - like an air conditioned building in July. But to add pizzazz to a website, I have to add interactivity. I need to add forms where people can enter information and the

computer can puke up (not a technical term) information based on the crap (not a technical term, either) that the visitor entered. So I come up with an incredible idea of market-ing genius.

I decide that I will make a list of people that will never, ever, be allowed to become members of Influenceclub.com. I call it "The Excluded List." I decide to make it so anyone and everyone can go to my site and Exclude other people by simply entering the name of the person they want to exclude, then pressing ENTER, and - voila - that person's name will be forever added to the Excluded List. Unfortunately, I discover that implementing my genius requires "HTML" and "Perl", the computer programming languages of web pages. What? These are not things that Idiots and Dummies know about. These are things that Computer Geeks know about. Geeks are totally different than Idiots and Dummies. But alas, for the sake of a zillion dollars, I learn the HTML and Perl for Idiotic Geek Dummies. I create the Excluded List.

But now the "Stupid Idiot's Book of Dumb Ideas" says I can't make a zillion dollars unless I actually have something to sell. I can't make

money if people aren't buying anything from Influenceclub.com. That would have been nice to know before I made the Excluded List. Who is going to want to buy something from Influenceclub.com after they have been excluded?

After some creative brainstorming, another genius idea illuminates the fog in my head. I discover that Amazon.com has deal where, if people click from Influenceclub.com to Amazon.com and buy a book, I get a commission. A five percent commission! That sounds like a lot to me - I will be rolling in dough. And then more genius! - I will tell the people on the Excluded List there is only one way to get off of the Excluded List: the answer is in one of the books sold at Amazon.com. Then they will buy all kinds of books; Zillions, I say.

I wait for the money to roll in. I wait for the zillions. I wait. I wait.

I look at the web counter that tells me how many people have visited my website. Twelve, it says. The Influenceclub.com website has had twelve visits. Twelve? I am fairly certain at least ten of them are from me: One from my home computer, one from work, and eight from differ-

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# The Good News Report

Recent Activities of the President and Dean, Faculty and Staff of WMCL

Contributed by Diane Lund

During the month of June 2001, President and Dean Harry J. Haynsworth traveled to Istanbul, Turkey for the International Legal Education Conference and then went on to London for William Mitchell's London 2001 CLE program. Those William Mitchell alumni who were able to attend were guests of the Haynsworth's for a dinner at the St. James Club. Dean Haynsworth also participated in the ABA Accreditation Committee meeting in Jackson Hole, Wyoming for the Thomas Jefferson School of Law in San Diego. Dean Haynsworth was the chair of the ABA Inspection Team. During July, the dean hosted the annual barbecue for faculty and staff. And at the end of August, he began teaching Professional Responsibility for William Mitchell's section 1 students.

Visiting **Professor Aviva Breen** recently retired as head of the Legislative Commission on the Economic Status of Women after nearly two decades. Among her major legislative accomplishments are the Local Government Pay Equity Act, the Minnesota Parental Leave Law, the Higher Education Child Care Fund, domestic abuse prosecution plans and welfare reform education provisions. Professor Breen was featured in the August 29<sup>th</sup> issue of *The Women's Press* and also in a July 30<sup>th</sup> article in the *Minneapolis Star Tribune*.

**Professor Peter Erlinder's** article, "Withdrawing Permission to 'Lie with Impunity': The Demise of 'Truly Anonymous Informants' and the Resurrection of the *Aduilar/Spinelli* Test for Probable Cause" has been accepted for publication as the lead article in the Fall 2001 issue of the *University of Pennsylvania Journal of Constitutional Law*. In June, he was invited to Pyongyang, DPR-Korea by the Democratic Lawyers Association to study the North Korean legal system and to discuss the possible exchange of research materials and lawyer delegations. On September 11, the Court of Appeals issued an opinion in the first case to decide the reach of personal jurisdiction for defamatory statements sent over the Internet. Professor Erlinder is counsel for the prevailing party in *Griffis v. Luban*, the first civil rights suit based on Minnesota Statute 481.10, which provides criminal penalties and statutory damages for violations of *Miranda* under a theory that was first suggested in his November 2000 article in the William Mitchell Law Review. On September 13, Professor Erlinder was elected as the first co-chair of first Patient's Advisory Council at the Moose Lake Sexual Offender Facility that is being called a "treatment" facility, but is operating under prison-like rules and regulations. This is a precursor to litigating the status of these facilities, which were first predicted in his 1993 article, "Minnesota's Gulag." Professor Erlinder is organizing programs at UCLA, Loyola University (Los Angeles) and the University of Arizona to introduce a delegation of

Japanese lawyers to public interest offerings in American legal education. He has also been asked to join the American/Japanese legal team that is pressing the claims of students and seamen killed by the American submarine.

Aspen Publishing has just published *Motion Practice, Fourth Edition*, by distinguished alumnus David F. Herr, **Professor Roger S. Haydock**, and Jeffrey W. Stempel, a former adjunct. This text has become the national standard for civil litigators and is the companion book to *Discovery Practice* also authored by Roger Haydock and David Herr.

The Council for Legal Education Opportunity, an ABA project, hired **Professor Ann Iijima** to develop model curricula for its summer institutes. These 6-week pre-law programs were developed to diversify the legal profession by expanding legal education opportunities for under-represented groups. Her materials will be disseminated for next year's summer institutes. Last year, Professor Iijima developed and ran two academic support programs for at-risk students. The results are preliminary, but promising. Compared with similar cohorts of students in previous years, the numbers of first-year students who experienced academic difficulty (were dismissed or placed on academic probation) decreased by two-thirds.

**Professor Eric Janus** published "Sex Offender Commitments and the 'Inability-To-Control': Developing Legal Standards and a Behavioral Vocabulary for an Elusive Concept" in Volume II of *The Sexual Predator* (Anita Schlink, Ed., Civic Research Institute, Inc., 2001).

This summer **Professor Ken Kirwin** attended the ALI Annual Meeting at Washington, the Association of Legal Writing Directors Conference, and the Distance Learning Workshop at Cornell, where he moderated the segment on Electronic Submission and Marking.

In August, **Professor Dan Kleinberger** attended the 2001 Annual Meeting of the National Conference of Commissioners on Uniform State Laws, as Reporter (i.e., principal drafter) for the Conference's drafting committee for the new Uniform Limited Partnership Act. The Act received final approval from the Conference. Professor Kleinberger's article, "RUPA Is Coming - UPA-LLPs Beware," is being published in the September issue of *Bench and Bar of Minnesota*. In addition, Professor Kleinberger taught Business Associations/Corporations I at the University of Minnesota Law School over the summer.

**Professor Peter Knapp** and Professor Roger Haydock conducted a program on the changing role of judges in the next century for the Minnesota District Judges Association at their fall conference. Karen Kurth, a Civil Advocacy student, argued and won a Court of Appeals case this summer.

**Professor Jayanth Krishnan** completed an article on Israeli public

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# Student Organizations Updates

## Student Bar Association Update

By Suzette Kusnierek, President

Well, the year is underway. I hope that all of you are settling in to the semester. I would like to congratulate all of the new first year representatives to the Student Bar Association; **Liz Stinson, Kristin Olson, Chanel Melin, and Kelly Olmstead**. There is one section that has not had an election as of this writing, but that person should be named soon. I look forward to working with all of these people throughout the year.

In light of the tragedy that occurred on September 11, 2001 I would like to remind everyone of the lecture series that the faculty is putting on. I would also like to let you know that the SBA is working on getting a panel together to deal with the incredibly difficult issues of that day and what the future may bring. We can all sit and listen to people speak, but I am also urging people to give what they can. Donate blood, volunteer, donate food to the food bank, anything that could help would be appreciated.

## SBA Congratulates Liz Stinson, Kristin Olson, Chanel Melin, and Kelly Olmstead as new first year representatives.

I would like to thank the first year section 3 for taking the initiative of selling buttons to donate money to the Red Cross. I know that many people are doing many things, and I thank you all for that.

The SBA has had its first couple of meetings for the year, and passed the budget for all student groups for the year. This was a particularly difficult process because there was less money carried forward from last year but just as many requests for that money. I would like to remind the student groups that if you did not get your full budget, but run into an area where you "need" money later in the year, you may come and talk to the board. The meetings are generally held the third Saturday of the month, but they are also listed on the SBA bulletin board and in *The Docket*.

If anyone has any questions or issues, please feel free to call me at 763-425-7463 or email me at: [skusnier@wmitchell.edu](mailto:skusnier@wmitchell.edu). Have a great semester!



## Student Intellectual Property Association Update

By Gretchen Pesek, President

Greetings current and potential SIPLA members, we want to thank everyone who was able to come to the meeting on September 5<sup>th</sup> - we were very pleased with the great turnout and hope it was beneficial for all who attended!

This semester we have some exciting events planned that should be both interesting and helpful to you if you are planning a career in IP law or just thinking about one.

Our first event really kicked things off by providing an overview of the WMCL IP Program. This event was designed to help you structure your class schedule so that you can get the most out of your time at WMCL. The "**Meet the IP Professors Social**", was held on October 24<sup>th</sup> and included an official welcome to Professor Ken Port, the newest addition to the WMCL IP faculty.

In November we are entertaining the idea of taking students on **IP law firm tours**. We would visit at least one General Practice Firm and one Boutique Firm, where students would have an opportunity to speak with lawyers about their IP practice, the career paths at their respective law firms, and the like. In the months to come, we will also begin gearing up for our "**roundtable**" programs that will be held second semester. The roundtable discussion typically include a panel of attorney's from a specific area of IP law, talking about what is new, what is hot and what is here to stay. Not only are the roundtable's fun to plan...but they are a great way to network with attorneys in the field - **don't miss the opportunity to Sign Up to be on one of the Committee's!**

We are really looking forward to an exciting year with all of our upcoming programs and the infusion of our many new members! As always if you have any questions about SIPLA or our upcoming programs please feel free to contact any one of us! We hope to see all of you, at our next meeting. Watch for more information in *The Docket!*

**Gretchen Pesek - President**  
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**Gretchen Randall - President-Elect**  
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**Wendy Cusick - Secretary**  
[wcusick@spineology.com](mailto:wcusick@spineology.com)



# CAREER COLUMN

Contributed by Kari Jensen Thomas, Associate Director for Career Services

**First year students:** Now that you are settled into your first semester of law school, now is a good time to start thinking about legal career options. We hope you were able to attend our kick-off event "From Here to Attorney" on November 3<sup>rd</sup>. In the near future you will all be receiving a tour of our office and explanation of our services during one of your WRAP classes. We also look forward to meeting with each of you individually in January.

**Part-Time Students:** Don't forget to pick up your copy of our part-time student resource called "Lighthouse in the Storm" which is available in the Annex. This resource is full of valuable information regarding the following career issues that part-time students face:

- Do I need legal experience before I graduate?
- Should I quit my full-time job early and get a clerkship?
- How am I supposed to afford to take a pay cut?
- Will employers value my current experience?

**Fall 2001 OCI** is coming to a close. We congratulate those of you who received offers through this somewhat stressful and time-consuming process. For those of you who didn't participate in OCI or did and weren't successful, there is hope! **We are having a Post-OCI Meltdown Party on Wednesday, November 14th from 5:30 - 6:30, Room TBA.**

During this program we will provide you with some good news and strategies for finding all of the many clerkships that are still out there with the legal employers who don't participate in OCI. Remember: OCI gets a lot of hype, but it is only 2 busy weeks out of the year and affects about 10-12% percent of each class. That means the other 50 weeks of the year we are diligently working with 90% of the class! Stop in and make an appointment, attend the dozens of programs we have to offer, utilize the resources we have available to you and remember...let us help you!

**November is Judicial Clerkship Month:** Look for important information about judicial clerkships in "The Scoop" the Career Services Annex as well as the Federal Judicial Clerkship Luncheon to be held in late November.

**Final Exams:** Don't forget to stop by our office for a M & M exam break!

**Best wishes on your final exams and happy holidays from the Career Services Staff!**



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

# Career Services Calendar of Events

Month	Date	Title	Time	Place
<b>November</b>				
Judicial Clerkship	11/1	Dean's Round Table #3	11:00 a.m.	Kelley Boardroom
Month & 1L Career Services Tours	11/3	<i>From Here to Attorney</i> 1L Program	9:00 a.m.	Oppenheimer
	11/9	Dean's Round Table #4	7:45 a.m.	Kelley Boardroom
	11/14	Post OCI Meltdown Party	5:30 p.m.	Location TBA
	11/28	Dean's Round Table #5	5:30 p.m.	Kelley Boardroom
<b>December</b>				
	12/8 - 12/19	FINAL EXAMS		GOOD LUCK!
	12/24 - 1/1	College Closed		HAPPY HOLIDAYS!
<b>January</b>				
	1/15	Dean's Round Table #6	12:00 noon	Kelley Boardroom
	1/16	Tri-School Public Interest Job Fair	5:00 - 7:00 p.m.	Auditorium
	1/22	Sign up for 1L Mock Interviews Begins		Career Services
	1/26	Jungle Tactics Skills Workshop	9:00 a.m.	Oppenheimer
	1/29	1L Mock Interviews	5:00 - 7:00 p.m.	2 <sup>nd</sup> Floor Interview Rooms
<b>February</b>				
	2/1	Dean's Round Table #7	7:45 a.m.	Kelley Boardroom
	2/12	Dean's Round Table #8	12:00 noon	Kelley Boardroom
	2/20	Dean's Round Table #9	7:45 a.m.	Kelley Boardroom
	2/25 - 3/1	SPRING BREAK		ENJOY
<b>March</b>				
	3/6	Career Carnival	4:30 p.m.	Auditorium
	3/14	Dean's Round Table #10	12:00 noon	Kelley Boardroom
	3/27	Dean's Round Table #11	5:30 p.m.	Kelley Boardroom
<b>April</b>				
	4/3	Dean's Round Table #12	5:30 p.m.	Kelley Boardroom
	4/26 - 5/7	FINAL EXAMS		GOOD LUCK!
<b>May</b>				
	5/19	GRADUATION		

## A Meeting of the Minds

*continued from page 6*

from a far-away land. Rather, its origins are the same as Christianity. Islam is one of the most popular, fastest growing and most tolerant religions in the world. Interestingly, only eighteen percent of the world's over one billion Muslims live in Arabic countries. Indonesia is the largest single Islamic country.

Christianity has had a relationship with Islam since Islam's inception. In fact, that meeting between the two leaders in Thirteenth Century can shed some light on the relationship between Islam and the Christian West for us today.

What's needed today is another "meeting of the minds" like that in 1219 A.D. when Saracen met Crusader, not on the battlefield but in an exchange of ideals, ideas and faith. That is the only way to ensure a lasting peace worthy of our "one God."



## Congress Must Thwart...

*continued from page 7*

dangers?

The Clinton administration cynically used the domestic Oklahoma City tragedy to increase its own power to combat "foreign terrorism." This administration is acting no less cynically in seeking to vastly expand its own power before the Congress and the American people have had a decent interval to recover from the shock and grief of this most recent tragedy.

Although President Bush's deliberate approach to foreign policy has the aura of statesmanship, his Justice Department's haste to secure passage of this massive increase in its own power is much closer to cynical Washington politics as usual.

If Congress does not stop this power grab, the American people will lose important aspects of the "way of life" that Bush is asking us to defend with the lives of our young, even before the "war against terrorism" has really begun.



*Post script: President Bush signed the anti-terrorism bill into law on Friday, October 26, 2001*

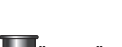
## Random Thoughts

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ent computers in the William Mitchell computer lab to test if the counter was really working. "The Totally Worthless, Complete Moron's Stupid Guide to Wasting Your Time" says nothing on this matter. Where are all the stupid Idiot customers? Where are those Dummies handing out fistfuls of money to the nearest taker? Oh, how could I have been such an Idiot? Did I really think that "The Book with the Greatest Number of Absurd Ideas and a Seemingly Legitimate Title at the Time I Bought It" would make me rich?

Now I see! The only way to make a zillion dollars is to write a book entitled "How to Make a Zillion Dollars, for Dummies" and sell it to all the Idiots. And the only way to make zillions of dollars is to write a book called "How to Make Zillions" and sell it to all the Dummies.

Smart; Very smart, indeed.



## The September 11 Assault...

*continued from page 1*

On the other hand, the Charter is realistic enough to acknowledge that sometimes armed force between nations can be necessary for self-defense. Article 51 of the Charter allows states to engage in the "inherent" right of "individual or collective self-defense", but only in the event of an "armed attack". In spite of the broad loophole that this allowance may appear to provide, most authorities would construe the phrase, "armed attack" narrowly. Accordingly, among other things, most authorities would probably hold that the use of force in self-defense under Article 51 would only be legitimate to repel an armed attack that was continuous or ongoing.

What all of this means in terms of the September 11 events and the U.S.-led actions in Afghanistan beginning on October 7 is relatively clear. To some, it may also be less than reassuring, at least at first glance. Unquestionably, the World Trade Center and Pentagon attacks would be Article 2(4) violations if they had been committed by a member state of the UN, since they were incontestably impairments of the "territorial integrity" of the U.S. However, an armed response by the U.S. or its allies, acting as states, is only justified if it constitutes "self-defense" against an "armed attack".

But all the armed activity constituting the September 11 attacks occurred only on that day. The attacks themselves were not continuous or ongoing after their completion on September 11. Accordingly, most authorities would probably say that the self-defense exception under Article 51 would not be available to justify the U.S.-led actions that began on October 7, nearly 26 days after the attack.

This result might strike some readers as exasperating. Doesn't the U.N. Charter acknowledge, for example, that it might take time for an attacked nation to marshal its defenses? Doesn't the Charter allow a stricken country any time to discern from which state an attack might have been directed? And besides, weren't all the moderates and peace-oriented activists urging the U.S. to adopt a slow and patient pace? Wouldn't it be unfair for the commentators to urge a slow and patient pace, and then have the U.N. Charter forbid self-defense because the response was *too* slow and patient?

The answer is that the Charter views the self-defense exception as being reserved for those truly rare cases in which a state must respond militarily to an attack while it is ongoing, in order to mitigate casualties and repel contemporaneously invading forces. As horrific as the September 11 attacks were, they were not a continuous armed invasion against which immediate military response to mitigate loss was possible. And this is pretty much the only situation for which the Article 51 self-defense clause was designed.

This arrangement in the UN Charter was probably not an accident. The framers of the Charter no doubt feared that the self-defense clause, if not narrowly limited, would be an "exception" that "swallowed up the

rule" against the use of armed force in Article 2(4). To allow open-ended permission for military retaliation, even after a severe armed attack, could invite much abuse. An action of self-defense not immediately tied to a contemporaneous attack, but following the attack by several weeks or months, begins to look more like a reprisal or retribution than self-defense. And it is quite clear (at least to most commentators) that mere military reprisals and retribution are now precluded by Article 2(4).

All is not lost, however, in terms of legal justification for these recent U.S. actions. Again, the UN Charter is sufficiently realistic to recognize that sometimes the use of armed force could be necessary, even if not in strictly-defined self-defense. The Charter recognizes that rogue states, or violent non-state actors, can engage in destructive behavior than can seriously threaten international well-being even if the Charter's strict pre-requisites for self-defense have not been met. The Charter in fact allows for the use of armed force to counteract such threats in the provisions of its Chapter VII.

However, the key here is that any use of force in these more generalized circumstances must be *collectively approved in advance*, at least in very general terms, by the UN Security Council. Chapter VII authorizes the Security Council to direct the forces of UN member states to engage in armed intervention, under certain circumstances, when the Security Council determines that there has been a breach of or threat to peace or an act of aggression.

Accordingly, the Charter does indeed recognize, to respond to the rhetorical queries above, that an attacked state might need time to marshal its military forces after an attack, and might need time to determine which state was responsible. However, when these actions result in any appreciable lag between the time of attack and the time of the responsive action, the Charter requires that the responsive action be coordinated through the Security Council. The extremely limited availability of the Article 51 self-defense exception does not forbid later responsive action by the stricken state. It merely has the effect of requiring that the responsive action be undertaken with the consent of the Security Council.

It is in part for this reason that President Bush and many of our diplomatic and military officials have been consulting with other world leaders and political figures in recent weeks. In order for the October 7 response to be legitimate at international law, a sufficient international consensus needed to be developed to allow for the Security Council's advance consent.

At least for the present purposes of the U.S. Administration, that Security Council consent was probably received on Friday, September 28. On that day the Security Council issued its Resolution 1373 (2001). This is a 4-page resolution (relatively lengthy as such things go) that contains numerous grants of authority to UN member states to respond to the September 11 attacks, and terrorism in general, on various financial, political and diplomatic

## Creaky Worldviews

*continued from page 3*

left behind a husband and three children. Apparently after you're done being enlisted in the Marines you must serve in the Reserve Corps for another four years. My brother was called to active duty. And the man I talk to nearly every day, the man who buys treats and toys for my dog, the man who lives in the apartment next door, is seeking political asylum... from Afghanistan. A dear friend and his family received threatening phone calls because they were Muslim. Another friend was arrested and "interrogated" by the police for two days based on the fact that he knew someone who knew someone who was related to a man of Middle-Eastern descent who wanted to use a flight simulator.

I think we would all sometimes prefer to maintain our six degrees of separation from people outside of our "place." Not because of prejudice, or hate, or misunderstanding, but because we don't necessarily want the foundations of our worldview rocked... or even jiggled, if we can resist it. The frivolous notion that underlies all of this running to stand still is just that; that we could maintain at least the illusion of long-term stability in our lives if we were left merely to our own devices. The assumption is that the natural entropy of the universe can be conquered swiftly with a Palm Pilot, a diligent sense of routine and a healthy regard for status quo.

When things get really busy, like for instance, every waking hour after you make the ill-advised decision to attend law school and be a worker-

fronts. The language is also broad enough to allow the U.S.

Administration to assert that the Security Council has authorized the use of force.

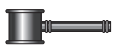
In Resolution 1373, the Security Council directs the UN member states to "take the necessary steps to prevent the commission of terrorist acts" and "cooperate, particularly through bilateral and multilateral arrangements and agreements [such as NATO], to prevent and suppress terrorist attacks and take action against perpetrators of such attacks". This language does not mention armed force per se, but the language is nevertheless sufficiently expansive for governments that are so inclined to infer an authorization to use military force to accomplish these aims if required.

One reason that Resolution 1373 is not more explicit in reference to armed force is that the Security Council itself is a politically diverse body. Two of its current members, for example, are Tunisia and Mali, which are predominantly Muslim states located in Northern and Northwest Central Africa, respectively. In order to get all Security Council members to agree on a particular text for any resolution that can have such profound consequences, it is often necessary for all sides to accept language that is less specific than any would optimally desire to express its precise viewpoint.

Largely for these reasons, non-specific language of this type is not

bee for the rest of your life, the cognitive impulse to draw a clear us-them line in the sand becomes even stronger. I don't think it's because we become more insensitive, or because we become even more heartless than we were when we were still civilians. I think it's because it's stressful to open up the floodgates and let the whole world be a part of our cognitive reality. It's agonizing to let the world be a part of our worldview when our worldview seemed so unbearably complex in the first place. The illusion of comfiness is at least a stable ideal. Can't we just keep that? Damn-it, my mind doesn't open up wide enough to fit an entire world full of conflicting realities inside.

When I look closely at the pain felt by people in my life, and your life, and the lives on Oprah and Dateline, I don't think my reaction is one of shock. I think that the dull, bland, incomprehensible hum that makes up my thoughts is the background noise of an overwrought intellect. Somewhere way back in the nether-regions of my brain, my longtime worldview is trying to compensate for the fact that it has become woefully outdated. In less than a week, a reality that consisted of international politics, terrorism, bloodshed and waiting lines for gas masks laid waste to menial chores, to-do lists, and long-term plans and aspirations. Perhaps that noble goal of stability and predictability in a world of chaos and entropy is no longer one worth pursuing? Or maybe we just no longer have the luxury of making that decision for ourselves.



unusual in situations such as this. For example, in November 1990, the UN Security Council unquestionably intended to authorize armed force against Iraq to repel its invasion of Kuwait. Nevertheless, its Resolution 678 (1990), designed to provide this authority, did not specifically mention armed force either. The 1990 resolution did mention "all necessary means", which is language taken from a key provision of UN Charter Chapter VII, and this year's Resolution 1373 does not contain this phrase. However, the phrase "all necessary steps", which (as noted above) does appear in Resolution 1373, may not be appreciably different from "all necessary means". Many would probably contend that the difference between the words, "steps" and "means" should not be dispositive.

Accordingly, it is quite open to the U.S. to assert that the UN Security Council had provided advance authorization for the military response that was launched on October 7. This does not mean that the Security Council might not attempt to, or be asked to, provide a more specific or comprehensive authorization in coming days or weeks. It also does not mean that other states and world actors wouldn't assert that Resolution 1373 is not sufficient to support the actions that occur. However, whenever bodies with legal power take measures authorizing others to act, whether those bodies are domestic or

*continued on page 13*

## The Good News Report

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interest litigation and the article has been accepted for publication by *In The Public Interest – Buffalo Public Interest Law Journal*. The article argues that along with additional resources provided to Israeli organizations as well as expanded legal rules of standing, public interest litigation in Israel has increased also because of a variety of motivational factors, a variable that till now has only been addressed in a cursory manner by scholars in this area. Professor Krishnan was also invited to write a review of Neil Duxbury's "Jurists & Judges: An Essay On Influence" that will be published by *The Law and Politics Book Review*. Duxbury's study examines the degree to which legal scholarship affects judicial decision-making in the U.S., France, and Britain. Other projects Professor Krishnan is working on include an India project evaluating the performance of various ADR institutions in India and a three-country study (on the U.S., Israel, and India) that examines how religious rights organizations have been using the courts as a vehicle for advancing their policy agendas. Professor Krishnan will be involved with the immigration law clinic during both the fall and spring semesters of the 2001-2002 academic year. He also will be helping to organize a series of colloquiums that the faculty will be conducting on the tragic events that occurred in New York, Washington D.C., and Pennsylvania. In addition, he shall be serving as a member of Mitchell's diversity committee, which will be chaired by Michael Jordan. And, he will be serving as a voluntary advisor to the American Cancer Society's policy and advocacy center.

This summer, **Professor Christina Kunz** presented a program entitled "Using Focused Lenses for Critical Reading" at the AALS Conference in Canada on New Ideas for Experienced Teachers entitled "We Teach But Do They Learn?" In July, she was part of a panel with Eileen Scallen and Bert Kritzer that presented "Language Patterns and Interaction Styles During Contact Negotiation Sessions: Power, Gender, and Race." at the Law and Society Association conference in Budapest, Hungary. In August, Professor Kunz presented (i) "Are the Revisions of Article 2 and 2A Finished at Last?" with Linda Rusch and Ed Huddleston, and (ii) "Click-through Agreements: Strategies for Avoiding Disputes on Validity of Assent" with Maureen Del Duca, Heather Thayer, and Jennifer Debrow at the ABA Annual Meeting in Chicago. This Fall, Kunz will make presentations for the Hennepin County Bar Association and for the Minnesota Institute of Legal Education.

The *Washington Law Review* accepted **Professor Richard Murphy's** article, "Punitive Damages, Explanatory Verdicts, and the Hard Look" for Fall 2001 publication. It explores the power of courts to require juries to explain the basis for their punitive damages decisions, why courts should use this power, and the analogy to judicial review of administrative discretionary policy decisions.

Over the summer, **Professor Robert**

**Oliphant** co-taught (twice) an Internet Research course for William Mitchell students with Professor Mark Steiner, South Texas College of Law, as part of the summer skills offerings at WMCL. Professor Oliphant also completed the section on Family Law for the *Legal Systems of the World Encyclopedia*. With the *William Mitchell Law Review*, Professor Oliphant planned the May 2001 Family Law Symposium. As part of that planning, he helped obtain three nationally recognized scholars for the program and local and regional experts to participate in the program. In addition, Professor Oliphant completed a Law Review article for Volume II of the *William Mitchell Law Review* on Custody Relocation. Along with professors Roberts, Kunz, and Steenson, Oliphant developed materials and programming for WMCL's first ever all laptop wireless section. The group met on many occasions with staff and others to plan the project, which was launched on the first day of school. The project is the first of its kind in the nation to have a "team" approach to evaluating and experimenting with technology and its use in the law school classroom.

**Professor Kenneth Port** wrote "The Congressional Expansion of American Trademark Law: A Civil Law System in the Making" for the Winter 2000 issue of the *Wake Forest Law Review*. He also wrote "Japanese Intellectual Property Law in Translation: Representative Cases and Commentary" for the May 2001 issue of the *Vanderbilt Journal of Transnational Law*. This summer Professor Port worked on the second edition of his book titled *Comparative Law: Law and the Legal Process in Japan*, which will be published in the Summer of 2002. On September 11, with Professor Niels Schaumann, Port presented a CLE entitled, "The Rules According to E: Hot Topics in IP Law" at the Sixth Annual Minnesota Law and Technology Show. He also put the finishing touches on an article that will appear in the *Vanderbilt Journal of International Law* in September. On October 16, **Professor Port, with Professor Schaumann**, will present, the "Copyright and Trademark Case Update" at the MSBA/MCLE 2001 Computer Law Institute, to be held at the Minnesota CLE Conference Center, 7<sup>th</sup> Street and Nicollet Mall.

Meanwhile, over the summer **Professor Niels Schaumann** chaired the Task Force on Electronic Course Materials that will report this fall on issues and recommendations regarding electronic course materials developed at the College. In June, he presented a CLE program titled "Fair Use from Sony to Napster" and he was the moderator on a panel that presented "Creating a Profitable Future for Your Law Practice" at the MSBA Annual Convention. Also in June, Professor Schaumann presented on behalf of Special Committee on Security Interests in Intellectual Property at the ABA-IPL Section Annual Meeting. Professor Schaumann recently completed the first draft of a law review article reviewing the recent book *Digital Copyright*. In addition, he negotiated a contract to write a casebook on cyberlaw with Lexis-Nexis. The book is scheduled to be published in

February 2004. Co-authors will be WMCL professors Kunz, Moy and Port.

On July 1, **Professor Deborah Schmedemann** presented a program on critiquing live performances (e.g., interviewing, counseling) at the Institute for Law School Teaching's Conference on Assessment, Feedback, and Evaluation in Spokane, Washington. She also served as a reporter for one of the plenary sessions at the Association of Legal Writing Directors Conference on "Blurring Lines: Integrating the Law School Curriculum," in the Twin Cities in July.

On June 13, **Doug Blanke** and **Susan Weisman** of the Tobacco Law Project gave presentations on tobacco regulation on Indian reservations at a workshop of representatives of Minnesota's tribal communities on the Leech Lake Reservation in Cass Lake, Minnesota. Blanke assisted local officials and community groups in Duluth and Cloquet in developing successful proposals for new ordinances to control exposure to secondhand smoke, and is now working with community groups in Hutchinson, Rochester and other Minnesota communities. In addition, on June 27, Blanke gave a presentation on secondhand smoke and workers' compensation liability at a Duluth seminar on Secondhand Smoke in the Home Community and Workplace.

In collaboration with the US-China Peoples Friendship Association (USCPFA), the WMCL Office of Multicultural Affairs, and the Dean's Diversity Advisory Council, **Joe LaForte** organized an exhibition of photographs by members of the Beijing Photographer's Association, in the corridor outside the Warren E. Burger Library. The exhibition ran from June 11<sup>th</sup> through July 11<sup>th</sup> and received wonderful feedback from the public, as well as William Mitchell

Staff and Faculty. The photos have been on loan from the Beijing People's Association for Friendship with Foreign Countries and have been displayed in the home cities of various USCPFA chapters across the United States. The exhibit, "Focus on New Beijing," documented the history and culture of the Chinese capital, Beijing today, and the unique local flavors and colorful cultural rhythms of new Beijing. The exhibit debuted nationally, on June 5<sup>th</sup>, at the Jimmy Carter Presidential Library complex in the Carter Center in Atlanta, Georgia.

In addition to her regular duties as Admissions Assistant for Operations, **Jennifer Stratton** spearheaded the registration portion of Orientation and the preparation of the new student folders for the incoming fall class. Jennifer, who has provided four years of exceptional service to William Mitchell, assumed many of the responsibilities for this year's Orientation on August 13<sup>th</sup> when Pam Richter, Assistant Director of Admissions for Operations, commenced an unexpected one-month medical leave.

From May through July, **David Wheaton** taught a section of the Introductory Finance course at the Graduate School of Business at the University of St. Thomas to students pursuing MBA degrees.



## The September 11 Assault...

continued from page 12

international in character, there can be arguments over the exact and intended scope of that authorization.

This also does not mean that, if the course of the military operations in

Central Asia becomes increasingly alarming, particular states won't be successful in persuading the Security Council to narrow the scope of Resolution 1373. Much may depend on what happens in the coming days and weeks.



## Jihad And Terrorism

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**Q.** Do you think it is appropriate that the United States is worried that other Moslems will become angry with the United States because of our military action in Afghanistan? Do you think it is appropriate to worry that otherwise peaceful Moslems will begin to follow bin Laden's message in this time of war?

**A.** Yes. Moslems are angry because this war will result in more bloodshed. If six thousand innocents were lost in America, we may lose more innocents in Afghanistan. Right now, we don't know how many lives we've lost because we cannot get full information about what is happening in Afghanistan. Yes, if America continues the attack, more peaceful Moslems may change their position.

**Q.** Do you believe that all world religions represented in the United States can co-exist peacefully?

**A.** Yes. I know Islam respects other faiths and their people and Islam calls for working together towards the wellness of human beings. If we have a healthy-minded society, people can co-exist peacefully.

**Q.** Do you think the same thing is possible in the Middle East?

**A.** If the Palestinian people get help from all freedom-lovers in the world, including America, and obtain their rights and freedom from Israeli oppression, then yes; they can co-exist peacefully.



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# Winter Calendar

## WMCL Events

### November

11/1	Dean's Round Table #3	11AM	WMCL-Kelley Boardroom
11/2	Dia de los Muertos; All Souls Day		
11/3	From Here To Attorney 1L Program	9AM	WMCL-Oppenheimer
11/6	Election day	Get out there and VOTE!	
11/9	MPRE Exam		WMCL and the U of MN
11/9	Dean's Round Table #4	7:45AM	WMCL-Kelley Boardroom
11/11	Veteran's Day	Lest we forget...Wear red poppy today.	
11/12	Evening Of Words & Music		Guthrie Theater - Downtown Mpls.
	Benefit for Gyuto Tibetan Monestary		
11/14	CLE Seminar	3 - 5PM	Firstar Building
	"Everything You Always..."		7th Floor Conference Room
	Cost: \$20 / RCBA members	\$35 / non-members	
11/14	Spirit of '76 : Reunion	5 - 7PM	Auditorium
11/14	1st-OCI Meltdown Event	5:30-6:30PM	WMCL-Oppenheimer
11/15	Opinion publication day		WMCL-Find your new Opinion today!
11/21	September 11 lecture series	12 Noon	Auditorium
	"Responses to Terrorism"		
11/22	Thanksgiving	No classes. College closed.	
11/23	Day-after Thanksgiving	No classes. College Closed.	
11/23	National Sinkie Day	Visit <a href="http://www.sinkie.com">http://www.sinkie.com</a> for more info.	
11/25	John F. Kennedy Day	The only thing we have to fear is...	
11/27	Federal Clerkship Luncheon	1 - 2PM	Room TBA
11/28	Dean's Round Table #5	5:30PM	WMCL-Kelley Boardroom
11/30	Blue Moon	Night (DUH)	In the SKY

### December

12/3	Make-up Day for Labor Day		(Monday classes)
12/4	Make-up Day for Thanksgiving		(Thursday classes)
12/5	Make-up Day for Day After Thanksgiving		(Friday Classes)
12/5	Last day of Fall Semester classes		
12/6 - 7	Reading Days		
12/8 - 19	Fall Semester Exams		
12/10 - 19	M & M Madness!		Career Services Office
12/22 - 31	Winter Break	No classes. College closed.	

### January

1/1	New Year's Day	No classes. College closed.	
1/2 - 6	J-Term		
1/7	Spring Semester classes begin		
1/15	Dean's Round Table #6	12 Noon	Kelley Boardroom
1/20	Winter Commencement		
1/21	Martin Luther King, Jr. Day	No classes. College closed.	
1/22 - 25	Sign-up for 1L Mock Interviews		Career Services Office
1/26	1L Skills Workshop	9AM	Room TBA
1/29	1L Mock Interviews	5:30PM	2nd Floor Interview Rooms

### February

2/1	Dean's Round Table #7	7:45AM	Kelley Boardroom
2/12	Dean's Round Table #8	12 Noon	Kelley Boardroom
2/20	Dean's Round Table #9	7:45AM	Kelley Boardroom
2/25 - 3/1	Spring Break	Have Fun!	

### March

3/6	Career Carnival	4:30PM	Auditorium
3/14	Dean's Round Table #10	12 Noon	Kelley Boardroom
3/27	Dean's Round Table #11	5:30PM	Kelley Boardroom

If you have submissions for next issue's calendar (April, May, June and July) please forward them to the Editor-in-Chief at [JHenders@wmitchell.edu](mailto:JHenders@wmitchell.edu)

## Minnesota Vikings

All games are HOME games at the HHH Metrodome - Downtown Minneapolis.

### November

11/19	VS New York Giants
11/25	VS Chicago Bears

### December

12/09	VS Tennessee Titans
12/23	VS Jacksonville Jaguars

# GO VIKINGS

## Special Holiday-type Events

### November

11/10 to 12/31	Field's Auditorium Show: the Night Before Christmas	Marshall Fields Nicollet Mall	Downtown - Mpls
11/16 to 12/30	A Christmas Carol at the Guthrie Theater	Guthrie Theater	Downtown - Mpls
11/23 to 11/25	City Children's Nutcracker	State Theatre	Downtown - Mpls
11/23 to 11/26	Holidazzle Parade	Nicollet Mall	Downtown - Mpls
11/23 to 12/31	Walk the Wild Lights at the Minnesota Zoo	Minnesota Zoological Gardens	Dakota County
11/23 to 01/05	Holiday Traditions in the Period Rooms	Minneapolis Institute of Arts	Central - Mpls
11/30 to 12/21	Holiday Magic	Como Park Zoo	Como Area - StPaul

### December

12/11 to 12/23	Black Nativity	Fitzgerald Theater	Downtown - StPaul
12/14	The Steeles' Christmas Concert	State Theatre	Downtown - Mpls
12/14 to 12/16	Nutcracker - Ballet Minnesota	O'Shaughnessy Auditorium	St. Kates - StPaul
12/16	Amy Grant & Vince Gill: A Christmas To Remember	Target Center	Downtown - Mpls
12/21 to 12/23	Jingle Bell Doc Doc Severinsen performs...	Orchestra Hall	Downtown - Mpls
12/21 to 12/30	Loyce Houlton's Nutcracker Fantasy 2001	State Theatre	Downtown - Mpls

## Minnesota Timberwolves

All games are HOME games at the Target Center Downtown Minneapolis.

### November

11/13	VS Cleveland Cavaliers
11/17	VS Orlando Magic
11/24	VS San Antonio Spurs

### December

12/04	VS Seattle Supersonics
12/08	VS Houston Rockets
12/11	VS Golden State Warriors
12/14	VS Sacramento Kings
12/18	VS Dallas Mavericks
12/21	VS Charlotte Hornets

### January

01/02	VS Milwaukee Bucks
01/04	VS Utah Jazz
01/07	VS Detroit Pistons
01/09	VS Seattle Supersonics
01/11	VS Los Angeles Lakers
01/15	VS Washington Wizards
01/26	VS Atlanta Hawks

### February

02/03	VS Sacramento Kings
02/06	VS Portland Trail Blazers
02/13	VS Phoenix Suns
02/15	VS Denver Nuggets
02/17	VS Miami Heat
02/27	VS Los Angeles Lakers

### March

03/01	VS San Antonio Spurs
03/11	VS Los Angeles Lakers
03/13	VS Houston Rockets
03/15	VS Indiana Pacers
03/17	VS Utah Jazz
03/19	VS Toronto Raptors
03/23	VS Portland Trail Blazers
03/26	VS Golden State Warriors
03/28	VS Dallas Mavericks
03/31	VS New Jersey Nets



## Minnesota Wild

All games are HOME games at the Xcel Energy Center - Downtown Saint Paul.

### November

11/18	VS Los Angeles Kings
11/23	VS Phoenix Coyotes
11/25	VS Dallas Stars
11/27	VS Vancouver Canucks
11/29	VS Florida Panthers

### December

12/02	VS St. Louis Blues
12/16	VS Colorado Avalanche
12/18	VS Anaheim Mighty Ducks
12/26	VS Detroit Red Wings

### January

01/02	VS Tampa Bay Lightning
01/04	VS Nashville Predators
01/06	VS Buffalo Sabres
01/08	VS Montreal Canadiens
01/11	VS Anaheim Mighty Ducks
01/13	VS Dallas Stars
01/26	VS New Jersey Devils
01/28	VS Calgary Flames
01/30	VS Los Angeles Kings

### February

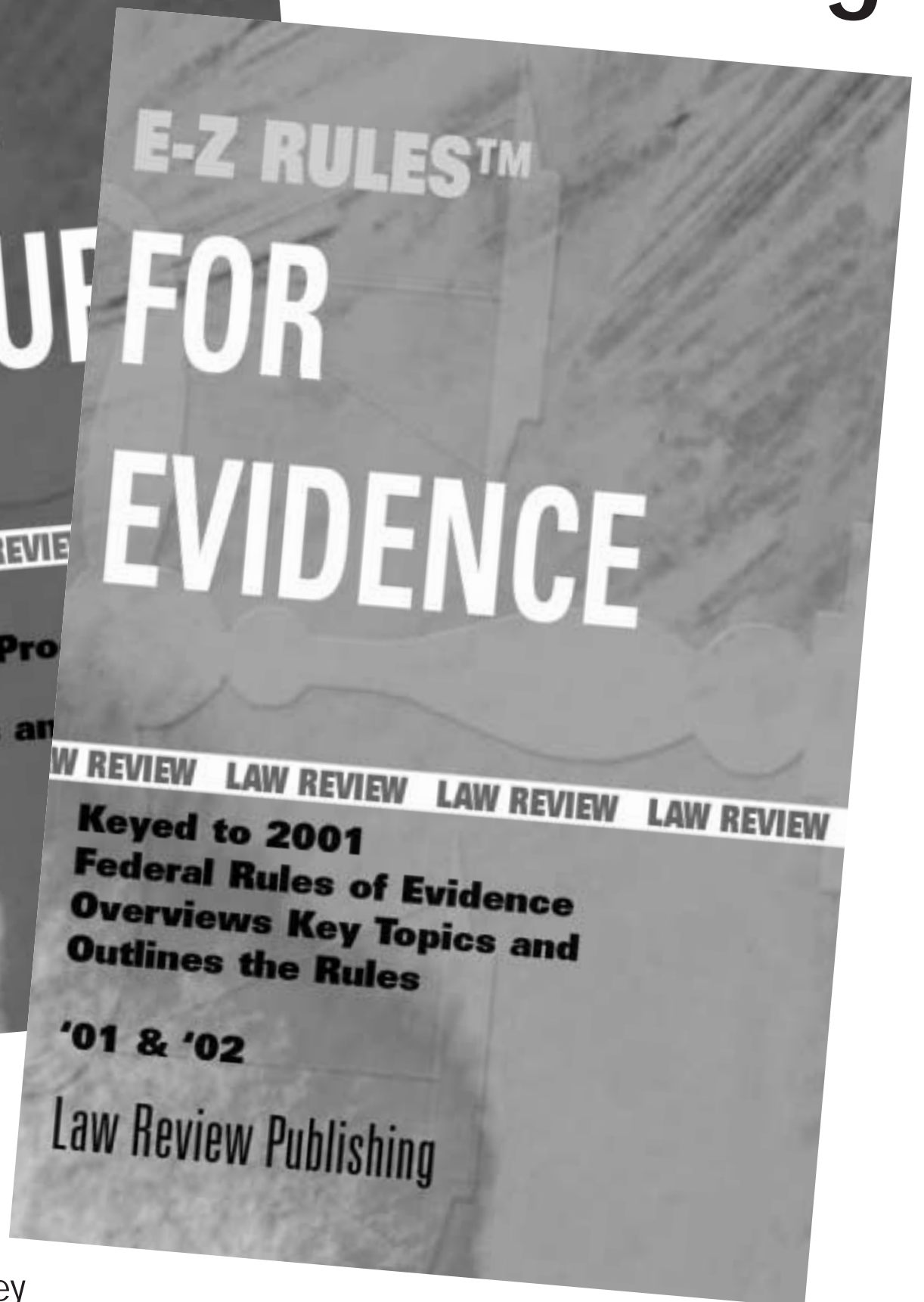
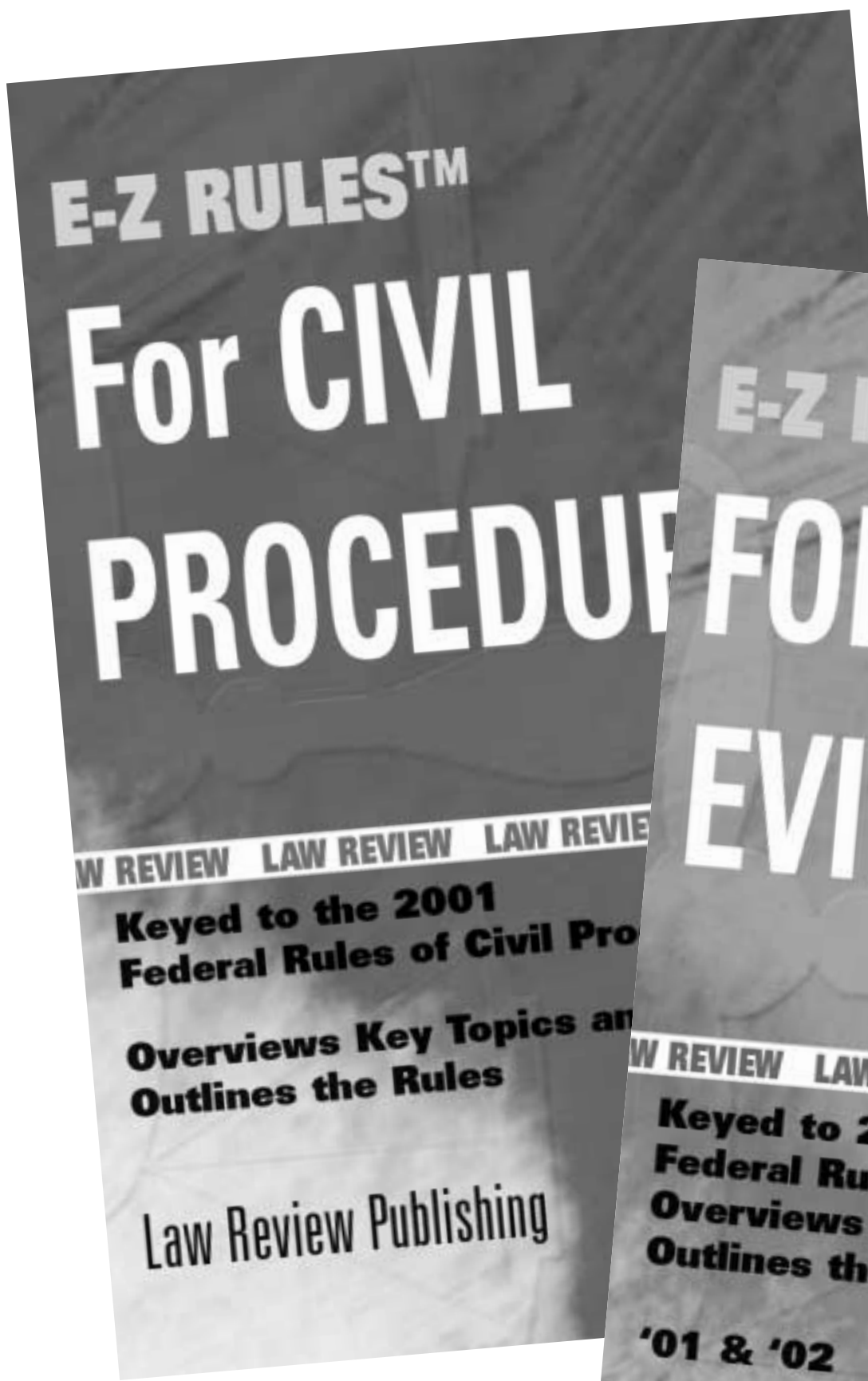
02/08	VS Colorado Avalanche
02/13	VS Detroit Red Wings

### March

03/05	VS New York Islanders
03/10	VS Columbus Blue Jackets
03/12	VS Ottawa Senators
03/17	VS Phoenix Coyotes
03/18	VS Calgary Flames
03/20	VS Columbus Blue Jackets
03/29	VS Chicago Blackhawks



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