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2005

Vol. 56, No. 5, November 1, 2005

University of Michigan Law School

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### Recommended Citation

University of Michigan Law School, "Vol. 56, No. 5, November 1, 2005" (2005). *Res Gestae*. Paper 97.  
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# Res Gestae

STUDENT NEWSPAPER OF THE UNIVERSITY OF MICHIGAN LAW SCHOOL

November 1, 2005

Since 1950

Vol. 56 No. 5

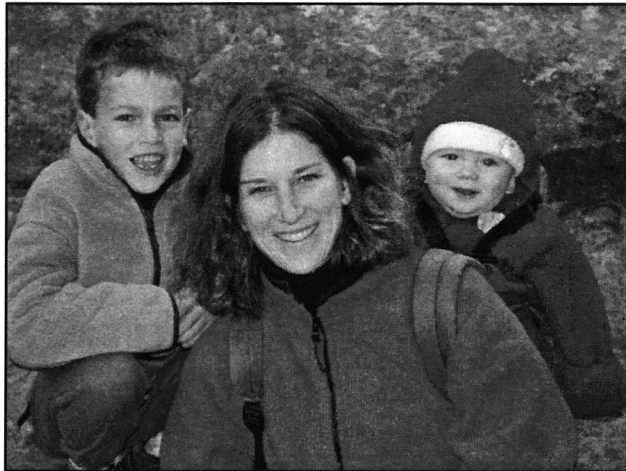
## On Hiking, Hospitals and Mayhem: A Half-Hour With Prof. Horwitz

By Michelle Sharpe

Assistant Professor of Law Jill R. Horwitz's research and teaching interests include health law, nonprofit corporations, empirical research methods, law and economics, and torts. She recently won dissertation awards from AcademyHealth and the National Academy of Social Insurance for her work on hospital ownership and medical service provision. Horwitz has also written on health care organization conversions from nonprofit to for-profit ownership, medical malpractice tort replacement, and medical quality.

Horwitz holds a B.A. from Northwestern University with honors in history, and an M.P.P., J.D., magna cum laude, and Ph.D. in health policy from Harvard University. Horwitz was an editor for the Harvard Journal on Legislation. Following law school, she served as a law clerk for Judge Norman Stahl of the U.S. Court of Appeals for the First Circuit. As a doctoral student, Horwitz held graduate fellowships at Harvard University's Hauser Center for Nonprofit Organizations (2000-2002) and Center for Ethics and the Professions (2000-2001).

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She is a member of the bar of the Commonwealth of Massachusetts. She joined the Michigan bar in 2003.



**Where are you from?**

I'm from the North Shore of Boston, a small town called Marblehead. I have one younger sister; she's an education professor in rural New Mexico.

**How did you become interested in health policy?**

I worked at Planned Parenthood for a few years soon after I graduated from university, mainly organizing, lobbying, and doing press work on various healthcare issues. Then I went to graduate school to get a degree in public policy and loved studying health insurance.

**A lot of your research has focused on the value of nonprofit hospitals for**

their willingness to perform "unprofitable services" such as AIDS treatment and emergency rooms. What is the difference between how lawmakers view nonprofit hospitals, and how you believe they ought to be viewed as per your research?

Many lawmakers believe that the key difference between nonprofits and for-profits is, or at least ought to be, providing charity care. They think that what makes a nonprofit organization a nonprofit is how much service it offers for free to poor people. I think nonprofits, not only in healthcare, provide unique services to all of us, regardless of whether we can afford to pay. Lawmakers ought to recognize the significance of those services and that they are different than what would be provided in a for-profit setting.

**What kind of services?**

In hospitals, it's the mix of services available – or not available – to patients. For example, for-profit hospitals are much more likely to offer open-heart surgery; maybe they are more likely to use it on patients, even when patients don't need it. I know that for-profits are more responsive to financial incentives

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# Res Gestae

Vol 56, No. 5

University of Michigan  
Law School

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## Editorial: Move Your Lunch or Lose It

Last week, Law School Student Senate (LSSS) 3L representative Pamela Grewal and LSSS President Brad Wilson went where angels fear to tread: the refrigerator in the Hutchins Hall student lounge.

This refrigerator, a "tragedy of the commons" experiment gone horribly wrong, had been overrun with bottles of flat cola and long-forgotten lunches.

Many law students use this refrigerator on a daily basis, and its destructive reverse aromatherapy must put a damper on their law school experience.

Acting *in loco parentis*, LSSS will continue to clean out the refrigerator each Wednesday at 8 a.m. All items in the fridge must be marked with a date. All items dated over a week old will be discarded.

Creating a system in which each lunch is marked for freshness and a body to enforce that policy is, apparently, the only way to ensure a sanitary space for student food storage. Perhaps this is due to consideration among the student body rather than hygiene: the collegiality among Michigan law students can backfire; students here are hesitant to throw out another student's food, even if that food appears to have been inside the refrigerator for months, possibly years.



Trust us, it was really scary before.

Further, some students' lunches have distinct odors that may not necessarily mean that they are spoiled. The decision to dispose of someone else's property - regardless of value - is not one made lightly, particularly in a building full of lawyers.

As a result, the refrigerator fell into madness. Students who were reluctant, or more appropriately, afraid to use the refrigerator instead used the resources of student organization offices.

As such, most student organization offices and journal offices have refrigerators, which represents a significant cost to the law school in electricity. The student lounge refrigerator's recent revival from a stinky, death-like state might not persuade existing student organizations to dispose of their refrigerators, even if they no longer need them. But a clean fridge for use by all may prevent new student organizations from installing new refrigerators, representing a more cost-efficient law school.

Grewal and Wilson will continue the dirty job that someone apparently must do. We at the RG extend the thanks of a grateful, nice-smelling law school to them.





## HORWITZ, from Page 1

than are nonprofits, and I worry that maybe they are a little too responsive. In most markets we don't care if firms are responsive to financial incentives. In fact, we think that's good because we can use our money to tell firms whether we like the stuff they sell. But, it doesn't work that way with health care. You have to trust the firms that sell your insurer the treatments that your doctor orders for you.

### **You don't choose your own remedy, right?**

Right. You don't go to the hospital and buy an appendectomy the way you go to a store and buy sneakers.

### **You worked with Planned Parenthood in San Mateo. What did you do for them?**

Well, I started in an administrative job as an assistant in the public affairs department (I almost didn't get it because my typing wasn't fast enough), but I ended up being in the right place at the right time. I started working there only a few months after *Webster* was decided, and there was a lot of work to be done. Within a few months I was promoted, and within a year I was promoted to director of public affairs. I was very lucky. And I ended up getting to bring the first winning case in the country against Operation Rescue, I got to lobby in Sacramento and Washington, and help draft legislation.

### **When did you get your J.D.?**

After I got my policy degree, then I clerked and went back to get a PhD.

### **You testified before the House Committee. What was that experience like?**

Exciting. I was told not to be too disappointed because there would probably be a huge empty room and only a few members there. Instead, the huge room was packed and about 80 percent of the Ways and Means Committee was

there. There's a lot of money at stake in these issues so there is a lot of attention.

I also learned a tremendous amount doing it. There were members on the committee who were asking questions and making statements that seemed to have nothing to do with the testimony and really didn't make any sense. During the hearing, I was getting increasingly despaired about their competence to run the country. And then the next day when I picked up the *New York Times*, those were the very members quoted in the *Times*. The members that seemed so silly in person, were also the ones who were quoted, and they came across great in print. So I learned a lot about who the real audience is. [laughing]

### **I read through the transcript. What exactly was it in relation to – tax?**

The tax-exempt status of non-profit hospitals. Committees in both the Senate and the House are looking into whether non-profit hospitals deserve their tax exemption.

### **You've been referred to as a "one-person interdisciplinary team." Which I do agree with, I have to tell you. I read your bio. But, how did you end up in law?**

I ended up in law because of the work I was doing in California. I wanted to be an advocate and I looked around and it seemed like lawyers were the ones who got things done. I wanted to get the degree to be a more effective advocate.

### **And has that view changed?**

Well, the view's the same about how useful the degree is for making a difference, but what I want to do with it has changed a bit. I would like to be more politically active one of these days, but for now I really love doing this.

### **You clerked for the First Circuit. How was that experience? Would you recommend it to your students?**

Oh it was wonderful. I adored working

for my judge, Norman Stahl from New Hampshire. Before becoming a judge he was a partner at a corporate firm for many years, so he had a very practical perspective and approach. It was great to work for someone whom I respected so much – he was very thoughtful, particularly about criminal cases. He told his clerks when we started that he would never decide a criminal case on a Friday. He wanted to sit on it over the weekend because people's lives were on the line.

### **What did you take away from it that has affected you now?**

In terms of lawyering, it was invaluable to learn how much procedure drives everything in the law. If I could go back and do law school experience again, it's hard to say what I would give up but I would definitely take more procedure classes and take my procedure classes more seriously. I never studied fed courts in law school so I had to learn it on the job. That was a big mistake. You wouldn't want to do that.

### **So you'd recommend clerking to students?**

Of course, it depends on what kind of career they want, so I wouldn't necessarily recommend clerking at the circuit level but I would definitely recommend clerking at some level. So much of law school is about training students to advocate, and working for a court you get to see which approaches are the most convincing. Clerking gives you a very special education.

### **What does your current research focus on?**

I'm still doing work on non-profits and healthcare. I'm working on another large-scale empirical project, looking at how different hospital types interact in markets. Most of the work I've done on hospitals considers them individual, but that approach paints an unrealistic picture. This paper is called *Peer Pressure*, and it looks at whether firm behavior depends



### HORWITZ, from Page 3

on whether its neighbor is for-profit or nonprofit. Another project which is completely different is about sovereignty justifications for nonprofits and whether legislatures can take nonprofit funds. The project is fun because the sources are so varied. I started studying Blue Cross/Blue Shield insurance conversion from nonprofit to for-profit in NY and ended up going back to the history of Henry VIII's dissolution of the monasteries and a series of US Supreme Court cases from the mid-1800s in which the Court found that it was constitutional for the Congress to seize the Mormon Church's assets in the U.S. territories. I spent part of last summer reading the debates in the Congressional Record about polygamy. It's a big change from spending my time crunching numbers on my computer.

**You were a graduate fellow at Harvard's Centre for Ethics and the Professions. What are your thoughts on an ethical lawyer and how would you teach your students to be an ethical lawyer?**

That's a hard one. By the time people go to law school, I think their values are established. But, you can teach classes in a way that helps them realize the significance of lawyers' actions. In my Torts class I try to keep it fun – sometimes that's not so hard because the cases are about people who behave so stupidly or badly. But, I also occasionally remind the students that we're talking about human beings who lost family members or their health or their jobs. I think that when you keep that in mind, it's easier to behave admirably.

**Now, of all the things you could have done, why did you end up choosing to teach?**

I seem unable to get enough of school. Every step of the way, I just wanted more. I was in professional school for five years, and I still wanted more so I went back to get a Ph.D. There were questions I wanted to answer, there were people I wanted to work with. And, after many years, I found that there were more

questions I wanted to answer and I still liked being around academics. It just felt right. But, I'm not one of those people who knew that they wanted to be a law professor at five years old.

**Are there really people like that?**

There are. There are. I still don't know where life is going to take me. At some point I'd like to do some government service, at some point I might want to practice, but for now, this what I want to do.

**Why Torts?**

It was my favorite class in law school, and I'd done a little writing on tort reform. But, mainly it was the class that got me the most excited in my first year of law school.

**Do you have a favorite tort?**

Well, I know what my students think! It would have to be malicious mayhem. Last year John Pottow taught the MNOP section before I did, and he told them how centrally important the tort it is to law, and how they should ask me all about it. Really, though, I defer to him as the malicious mayhem expert.

**What do you enjoy about teaching 1Ls? Keep in mind, the next question is what do you enjoy the least.**

What I enjoy the most about teaching 1Ls is watching them start to understand how the law works and how hard they work at it. For the most part, they're really in there trying. It's great fun to introduce somebody to something new. What I like the least? Their anxiety and impatience. It takes a while for all this new material to click and they shouldn't expect it to come together immediately.

**What do you expect out of your students in their class work?**

Effort.

**If a student didn't do the reading for the day, what do you do? Move on, are you disappointed?**

Disappointed is a little too personal. I get mad. I expect everyone to do the readings. I have a policy that on the rare occasions when a student is unable to complete the reading, she needs to let me know before class. I don't want unprepared students to waste everyone else's time.

**How did you end up at Michigan from California?**

I came here from living in Cambridge for almost ten years. California was a long time ago. I'd gone to college in the Midwest, and was looking forward to coming back. But, mainly I wanted to teach at this law school – of all the places I looked, this one was the best fit.

**And what do you enjoy the most about Ann Arbor?**

The University. The ease of living here with a young family. A few weeks ago I tried out Planet Rock. That was great.

**If you weren't involved in academia, which of your interests would you want to pursue professionally?**

I'd probably work in politics. I wouldn't ever run for office, but I'd maybe work on campaigns, work with interest groups.

**Your family? You have two children?**

I have two little boys. But the older one wouldn't like that description. One big boy and one little boy. I have a seven-year old, Matthew, and he's in second grade and a seventeen-month old, Joshua.

**Do you have any hobbies?**

I used to. I used to do a lot of kayaking, ocean kayaking, not river kayaking. I like hiking, kayaking, swimming, and camping. Slow sports. I don't like bike racing or anything that's fast, except skiing. For our honeymoon, my husband and I spent a month kayaking on the South Pacific, Fiji and the Solomon Islands. But, kayaking isn't a sport for

**Continued on Next Page**



**CONTINUED from Previous Page**

little kids. I also play the piano a bit.

**Is there a book that you really enjoyed that you would encourage others to read?**

I've read a bunch of good novels recently. I read *Middlesex*, which was really good. The book is largely about the history of Detroit, so it was a lot of fun to read a book about a place where you're living. Most recently, that's the best thing that I read. I've also started reading Benson's *Mapp* and *Lucia* novels. They're hysterical. A friend gave me *Blood Done Sign My Name*, a memoir by a historian named Timothy Tyson. It's about the murder of a black man in Oxford, North Carolina in 1970. It's gripping, but it's been keeping me up at night.

**Final thoughts, advice to your first-year students, perspectives on life?**

Well, that's a big question. I don't know about perspectives on life. Maybe the same thing I said in last week's *Res Gestae* in an interview about the young women at Yale who plan to go to law school and then stay home to raise children. Life is likely going to be long and you don't have to do, or decide, everything at once. The first job you take after law school is likely not going to be your last. Be open and try different things.

I never thought I'd end up being a law professor. I took some kind of aptitude test in ninth grade and if I'd listened to that I would have been a psychiatrist, psychologist, or social worker because those were the things at the top of the list. I'm glad I didn't listen to that test completely. It was a good thing to listen to a little, though. The test results made it very clear that I shouldn't be a bus driver. My hand-eye coordination isn't great.

**Finally: you went to Northwestern. Northwestern v. Michigan football game. Who are you cheering for?**

Oh. I take the Fifth.



## Question on the Quad:

### "Who would you want to play you in a movie, and who would you actually get?"

Reporting by Dan Clark and Jay Surdukowski



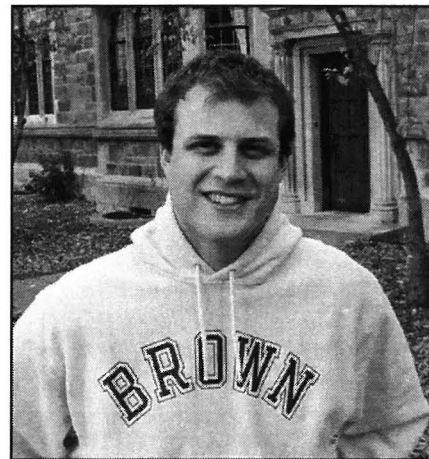
James Kokalj, 1L

Ok, definitely never Nicholas Cage or Keanu Reeves, those two are out right away. I want Ray Romano... but I would get Larry David.



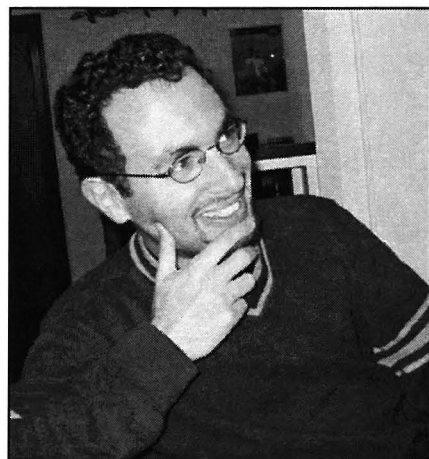
Liz Ryan, 2L

Want: Can it be someone dead? Someone really dramatic, like Katherine Hepburn. I mean really impressive, really weighty, someone who broke the mold. I know that I would get someone little and cute... everyone's always like "Oh she's so little and cute."



Luke Meier, 1L

OH! I want the *Batman Begins* guy. Bale. Christian Bale. But I would get Chris O'Donnell. [QQ: *Robin?*]



Dave Cooper, 1L

Maybe Ben Stiller as the good one, but I would probably get that guy from *Napoleon Dynamite*.

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*Feature films based on the life stories of Dan Clark and Jay Surdukowski are in development, but Dan and Jay are holding out for A-List talent. Okay, B+ talent. Damn the curve!*



# Fear No Evil in *Campus of The Dead*

By Mike Murphy

I love being scared. Not so much the “roller coaster” scared, where the terror of hurtling down a hill at 90 mph is replaced with dread of what that’s doing to your brain. I like the “Monster In The Closet With a Gun” scared, where the fear really is all in my head. And I don’t as much like the “I’m In Con Law and I Haven’t Done My Reading and I’m Wearing Red and He’s Looking at Me Scared,” where the fear really is more of an internal insecurity; or even “Karl Rove’s On The Phone and He Needs Me To Lie To The Grand Jury” scared, where bad things might only happen in the future. I like “Whatever’s Living in the Student Lounge Refrigerator Just Ate My Lunch and Released Spores and Now I Can’t Breathe Scared.” I like my terror to be external, imaginary, and even more mysterious than “intermediate scrutiny.” I read horror novels as a kid instead of having friends. But since law school, TiVo and the kegerator have soaked up my reading time, I have to settle for watching a lot of scary movies.

Zombie movies are my favorite. There’s something about a horde of mindless creatures roaming the countryside thirsting for brains that scares the crap out of me. Growing up, I was always the kid whose mouth got him out of (and into) trouble. You can’t outwit zombies, though. They don’t care. They’ll just eat you.

I watched two zombie movies last week to pump up for last weekend. The first, *Dawn of the Dead* is a gory remake of a 70s movie. A group of survivors hides out in a Wisconsin shopping mall against a horde of zombies as the world outside holds its breath. (Just kidding. Like the world would notice if Wisconsin was overrun by zombies, and maybe it has. Honestly, have you seen Packer fans?) So it’s like *Assault on Precinct 13* or *Zulu*, only with zombie Packer fans. They escape at the end with much bad-assedness and mad disrespect to the Mean Green Machine.

Next I saw *Shaun of the Dead*, a British comedy that’s also a zombie movie. The main character is so distraught after being dumped by his girlfriend that he fails to notice all the zombies that appear to be taking over London. It can happen: it reminds me of the time that the Americans captured Saddam Hussein during finals (mine, not Saddam’s), and I didn’t find out about it for days. Shaun comes to his senses, freaks out, and takes refuge in the only place he can think of: the pub.

A friend described the difference between the two movies like this: In *Dawn of the Dead* the characters react the way you’d hope you and your friends would react if zombies took over everything – namely, holing up at a sensible place and turning into bad asses. Shaun is the one where the characters actually react the way my friends and I would react in the face of the zombie threat: denial, then irrational freaking out, and finally, drinking. (Note: we react in a similar fashion to academic stress, the glutted job market, and key losses by our favorite sports teams.)

So I watched both movies on late nights last weekend. The surround sound was amazing. I could hear the undead rampaging all around me! Then the phone rang, and I paused the movie. Horrifyingly, the rampaging outside didn’t stop. “Holy crap!” I said into the phone. “The undead are rampaging!” I ran for my racquetball racquet, which I use to kill spiders (effective) and repel intruders (ineffective). My friend was drunk, heard me wrong, and said “The undergrads? Yeah, they’re everywhere tonight.” Oh. That was what I heard. My windows were open. Undergrads! I love them too. There’s something about a horde of mindless creatures roaming the countryside that also scares the crap out of me.

I kid. But the undergrads travel in packs under cover of night, and have an ability to reason startlingly similar to that of the walking undead. But there’s a key difference: unless you’re an alcoholic beverage, an attractive young woman,

or a police officer, most rampaging zombie undergrads will leave you alone. If you engage them, they may deliver philosophical pronouncements (“Dude... we’re drunk”), offer to buy your takeout food from you (“Bro, I’m serious”) or ask for directions to places that are nowhere nearby (“Dude, is this the noodle place?” “No, bro, it’s the Law School.”).

How are zombie undergrads created? Most zombie movies don’t explain that. I think undergrad zombism has something to do with alcohol. I was at (ahem) “Good Time” Charley’s – where they’ll sell you a Long Island Iced Tea for three bucks then have the audacity to get *mad at you for being drunk* – and they even sell a shot called a “Zombie.” It’s a sugary mix of rum, orange pineapple juice and human brains.

What to do about that? (Other than stick with beer?) There are no good answers. Zombie movies never offer good explanations for the cause of zombies, nor offer potential cures for zombism. That is, besides killing the zombies. But we probably shouldn’t kill undergrads. My Crim Law grade suggests that I’m no authority on such subject, but I think that’s some bad *actus reus* or something. Besides, the zombie undergrads are just drunk. If getting drunk were punishable by death, my friends and I would have been buried in a shallow grave underneath Charley’s a long time ago.

We can’t get rid of the hordes of rampaging drunken undergraduate zombies, but unlike the characters in the zombie movies, we *can* peacefully coexist with them. For if you give us enough sangria, we too would stumble across the countryside in search of a pizza. Just a thought to consider when you next come across things that go “Woooo! Show Your Boobs!” in the night.

*Mike Murphy is the Editor-in-Chief of Res Gestae. The one thing about living in Ann Arbor he never could stomach was all the damn zombies. E-mail Mike at [murphy@mumich.edu](mailto:murphy@mumich.edu).*



# Attractive Nuisance: Introducing the Poetry of James Merrill

By Jay Surdukowski

The late James Merrill is this week's poet. "The Victor Dog" springs from his book *Braving the Elements*, published in 1972:

**The Victor Dog**  
James Merrill

for Elizabeth Bishop

Bix to Buxtehude to Boulez,  
The little white dog on the Victor label  
Listens long and hard as he is able.  
It's all in a day's work, whatever plays.

From judgment, it would seem, he has refrained.  
He even listens earnestly to Bloch,  
Then builds a church upon our acid rock.  
He's man's -- no -- he's the Leiermann's best friend,

Or would be if hearing and listening were the same.  
Does he hear? I fancy he rather smells  
Those lemon-gold arpeggios in Ravel's  
"Les jets d'eau du palais de ceux que s'aiment."

He ponders the Schumann Concerto's tall willow hit  
By lightning, and stays put. When he surmises  
Through one of Bach's eternal boxwood mazes  
The oboe pungent as a bitch in heat,

Or when the calypso decants its raw bay rum  
Or the moon in *Wozzeck* reddens ripe for murder,  
He doesn't sneeze or howl; just listens harder.  
Adamant needles bear down on him from

Whirling of outer space, too black, too near --  
But he was taught as a puppy not to flinch,  
Much less to imitate his bête noire Blanche  
Who barked, fat foolish creature, at King Lear.

Still others fought in the road's filth over Jezebel,  
Slavered on hearths of horned and pelted barons.  
His forbears lacked, to say the least, forbearance.  
Can nature change in him? Nothing's impossible.



James Merrill.

The last chord fades. The night is cold and fine.  
His master's voice rasps through the grooves' bare groves.

Obediently, in silence like the grave's,  
He sleeps there on the still-warm gramophone

Only to dream he is at the première of a Handel  
Opera long thought lost -- Il Cane Minore.  
Its allegorical subject is his story!  
A little dog revolving on a spindle

Gives rise to harmonies beyond belief,  
A cast of stars. . . Is there in Victor's heart  
No honey for the vanquished? Art is art.  
The life it asks of us is a dog's life.

James Merrill is the Mozart of American poetry. His formal range is unparalleled. His death ten years ago leaves a great emptiness. Unlike his contemporaries Anthony Hecht, Richard Wilbur, or Peter Davidson, Merrill's formalism sings with life. There is a real heartbeat behind the metrical throbbing. You want to dip your toes into the clean silver pools of his poems. They aren't cold seas of concrete needing a jackhammer. If the poems are difficult, they are pleasantly so. There is a sense of music and a colloquial manner at work, which makes the complexity

companionable, not stand-offish.

James Merrill's father founded Merrill Lynch. His trust fund (about \$400,000 a year in the 1950s!) allowed Merrill the freedom to travel widely, live in Greece, Florida, and Connecticut, and, most importantly, to write, write, write. Until about age 25 Merrill was something of a brat as he admitted in his autobiography of those years aptly entitled *A Different Person*. He drank champagne from ladies' shoes, was kind of a dick to people, and was painfully self-conscious.

Even his early poetry readings at Amherst College were awkward and stilted. But something changed. For one, he met his longtime companion David Jackson, a ruggedly handsome scion of a Western family straight out of a Wallace Stegner novel. Merrill became a kind, witty person who lived a life of grace, for the most part. His Ingram Merrill foundation (a symbolic reunion of his divorced parents) provides grants to less endowed artists. His long-time home in Stonington, CT is now a place where poets can stay and write. And frankly, every time I watch the bell closing down Wall Street for the day, I give thanks for its allowance of James Merrill.

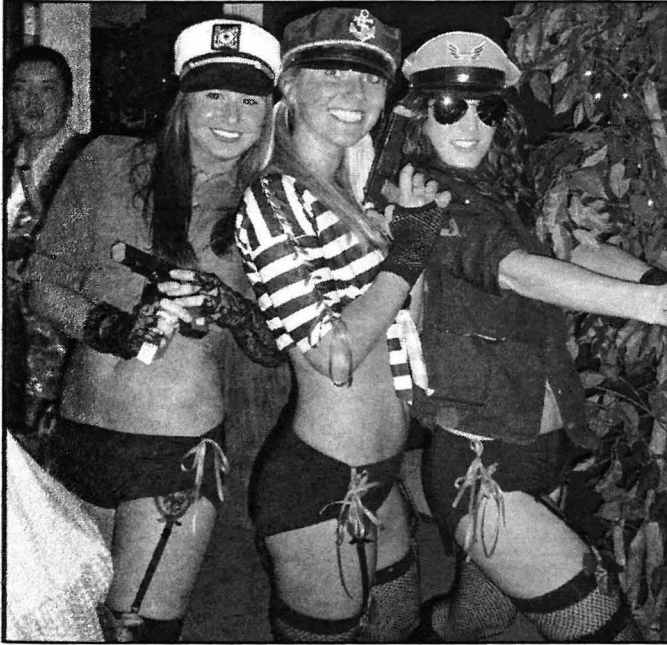
Merrill's awards include the Bollingen Prize, a Pulitzer, and two National Book Awards. His biggest triumph was a trilogy of books based on a communion (using an Ouija board) between him, David Jackson, various antique spirits (chiefly Ephraim and Mirabell), and dead friends such as the poet W. H. Auden. What started out as a few poems based on Ouija Board sessions ended up being one of the most complete and compelling literary cosmologies since Dante. The three works and a brief coda were collected into one volume called *The*

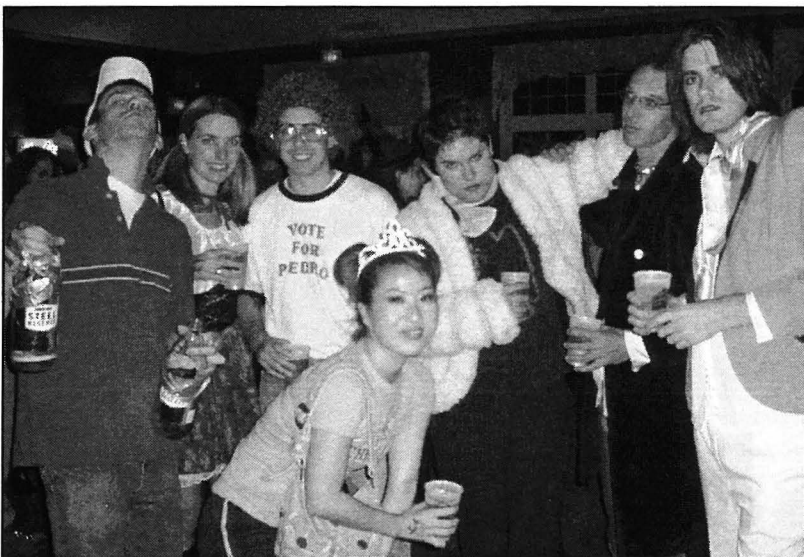
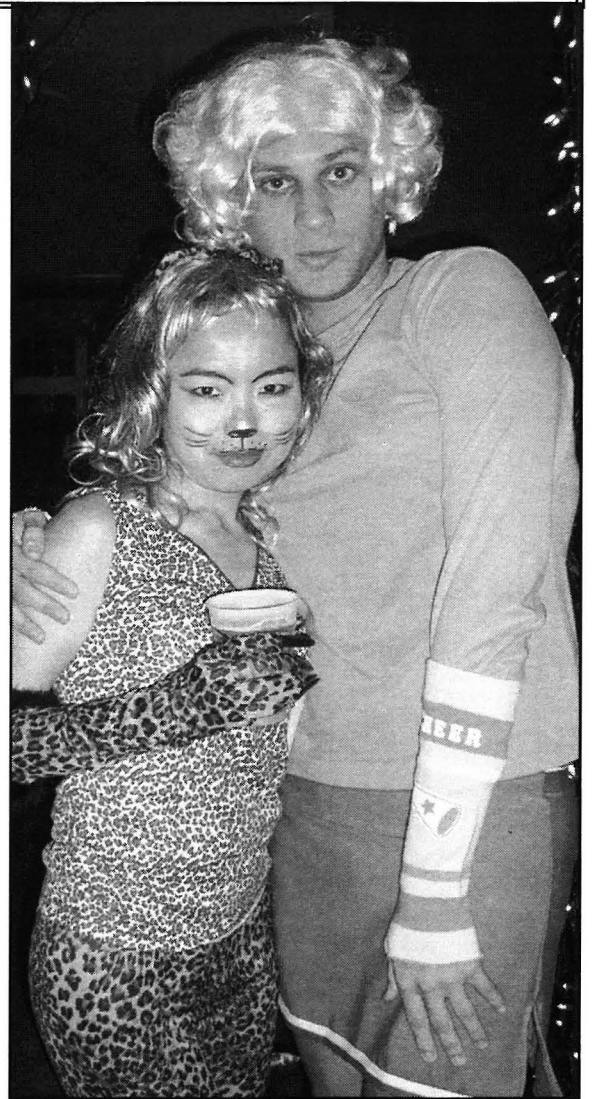
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# The Law School Spooky Senate Presents: Halloween Party, Oct. 28, 2005

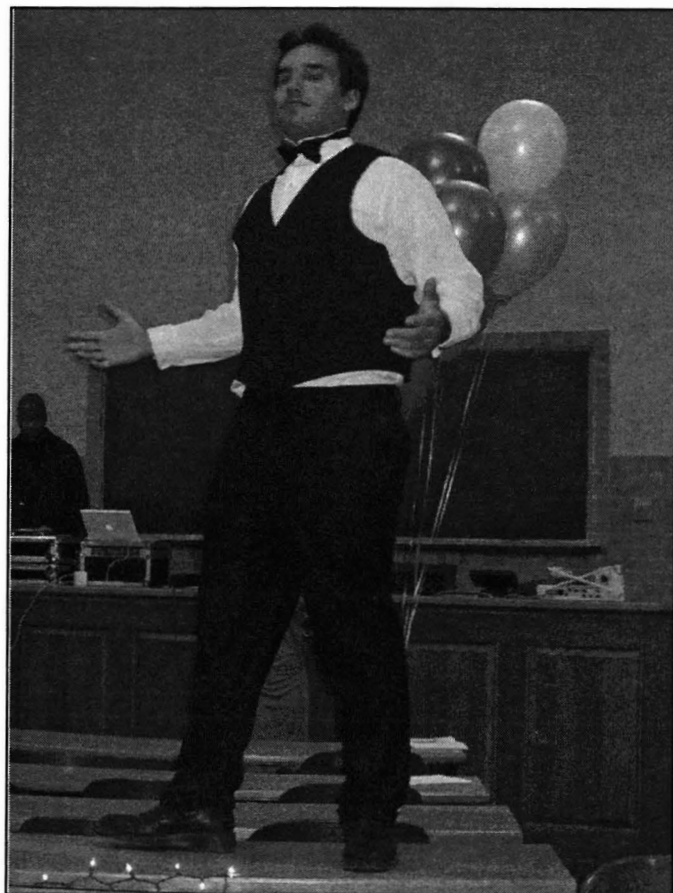
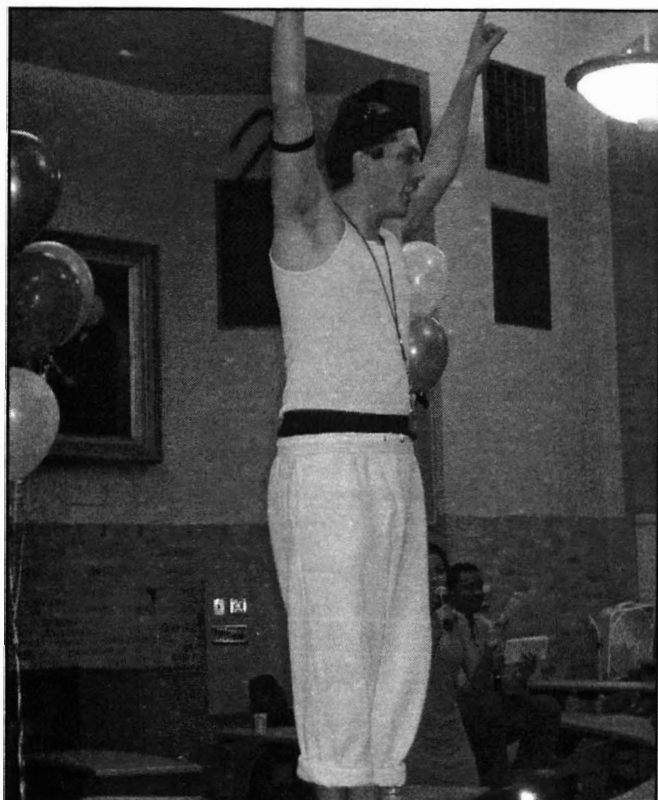
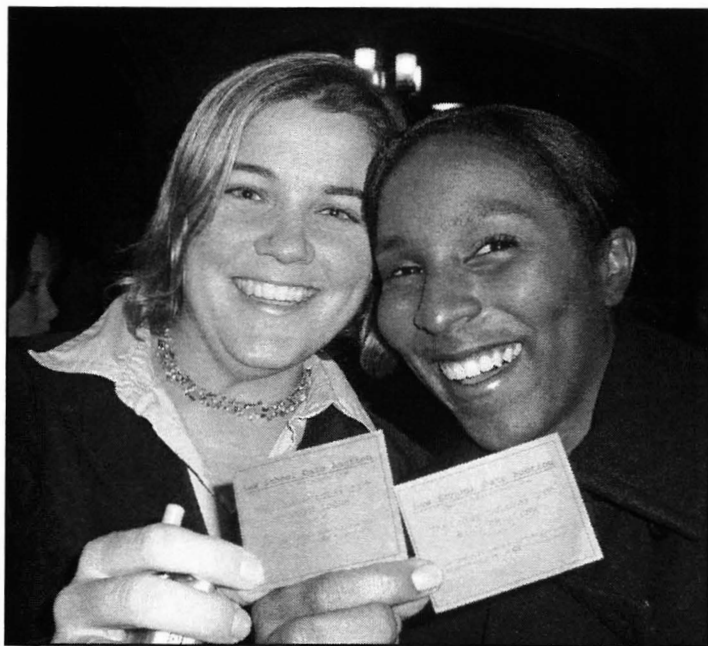
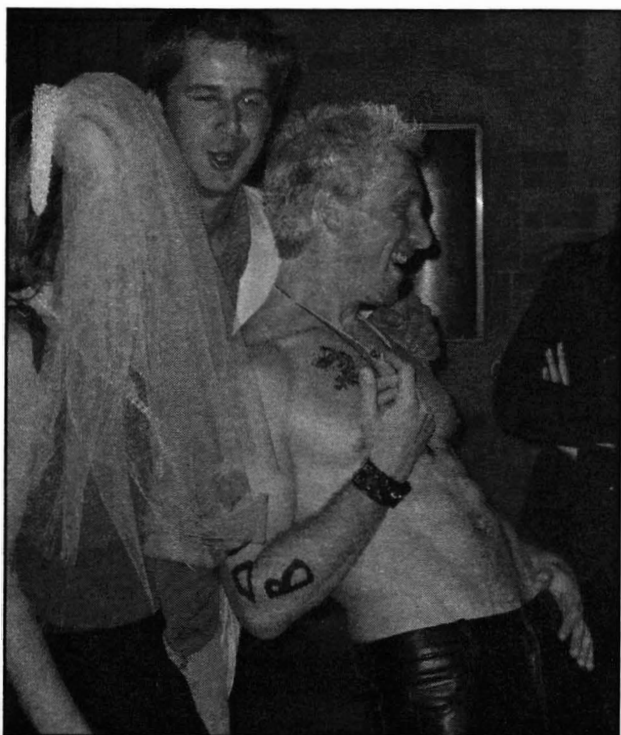


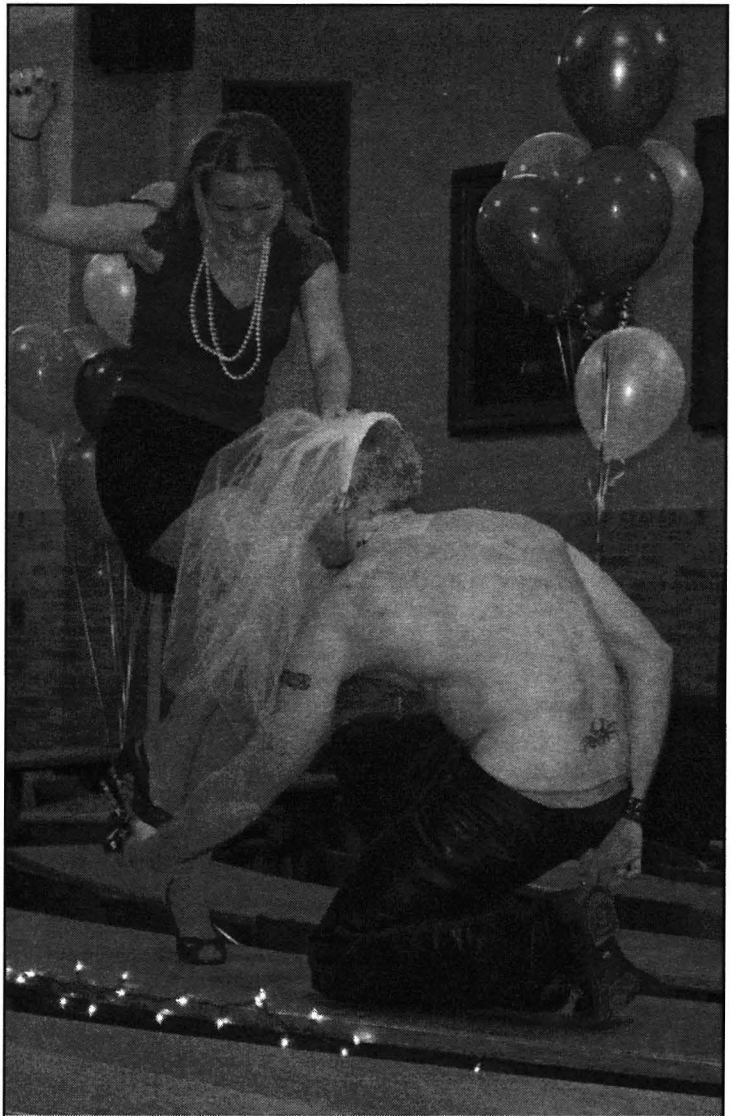
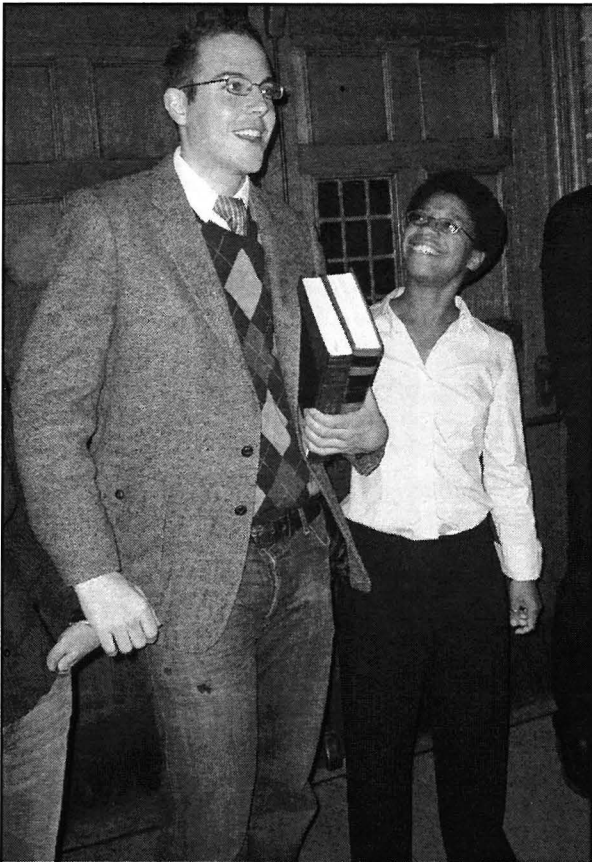
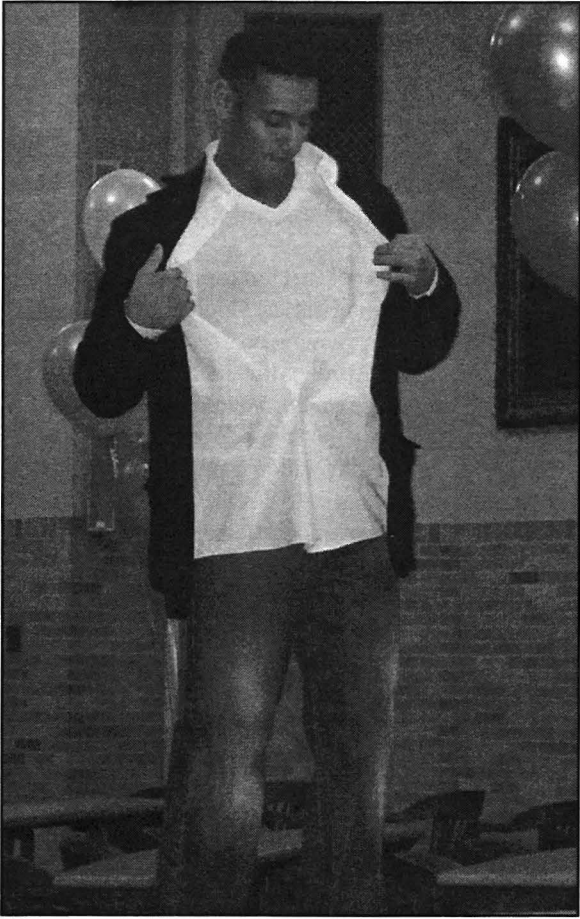






## Working Hard for the Money: BLSA Date Auction, Oct. 27, 2005







# When Did I Become Grandpa?

By Matt Nolan

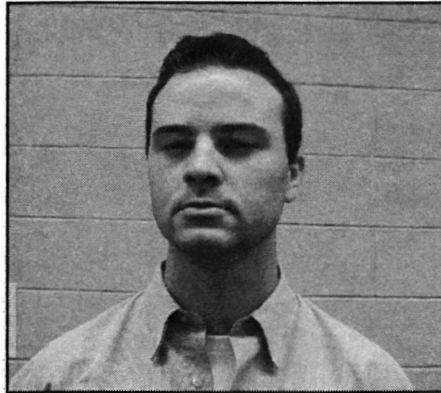
The noise coming from the co-op next to my apartment is too loud. It's not that the co-op's residents are too loud in general, but rather they seem very "not together" in their noise level at any given time. They have Friday midnight music playing on Wednesday at 1am. They have Wednesday 11pm music playing on Monday at 7pm.

It's not only the noise level. If you can get used to highway noise and traffic, you should be able to adjust to the dull bumping of Ludacris, even if it is 3am before a final, right? What I don't understand is what those three girls and eight guys next door are screaming about every 40 seconds or so at 3am (or why the music needs to be that loud at that time for not even a dozen people is another issue). Through my window, they seem engaged in a relatively laid-back game of beer pong. With my eyes closed, it sounds like a 200-person spring break blowout.

Loud noise is expected on campuses, though, right? How about the kid who plays the banjo upstairs? What can I say to him? He's just playing his banjo. Should he have to stop because every time I sit down in my chair to relax, he starts jamming, driving me a little closer to insanity one twang at a time? I can't fault him, can I?

It's not just my new aversion to noise that's making me feel like I need to start price-checking Depends. Why don't undergrad girls wear clothes anymore? Honestly, I don't know how some of them leave the house wearing (or not wearing) what they do. With Halloween coming up, the skirts on the French maid outfits will probably get even shorter and the number of buttons actually fastened on the shirt of the "police officer" will decrease even more.

Do these girls own pants that fit?



They say the smile is the first thing to go.

Do they have parents? Do they have boyfriends? Are the parents and boyfriends okay with this? Maybe it's tolerated because everyone gets to take in the rest of the scenery for a night, too, but my how this holiday has changed over the years.

And how can everyone afford an iPod? Aren't students supposed to be hanging by a financial thread? I really want an iPod. And a hott (yes, so hott it merits two "t"s) stereo system. Every time I get ready to buy one, however, I think about those six digits of student loans looming, the housing cost/debt coming, and the need to start saving for the wife and kids that are far from here but probably coming before I think they will be.

It's not that these worries keep me from blowing airfare money to see my girlfriend or to go to away football games. But for some reason buying tangible items seems different and less justifiable. Why? That's not completely true, because I have also developed an addiction to buying books that aren't for school. Wait. Books?

The decision between going drinking at 11pm on Tuesday night and working out at 7am on Wednesdays is as clear-cut these days as it was a few years ago, except that I used to favor the former and now almost always the latter. Saturdays after football games I'm usually in more of a "I'm tired, let's order pizza and watch

the late game" mood than the "let's pound some Red Bulls and Sparks, rally, and see how far we can push tonight" mood.

It's not that I'm completely Grandpa. I still went out last Monday and Wednesday before leaving on Thursday for Chicago. I still prefer the student section at all Michigan sports games, and am probably one of the more "over-the-top" fans. I still play video games when studying gets boring. I still show up to school hung over occasionally. But that all takes a backseat these days to thinking about where I'm going to live next year, what I need to do to get ready for my job, how much I should be giving back to the law school, undergrad, my high school, charities, and how cute my 5-month-old nephew is going to look on his 1st Halloween. (Did I just write that?)

By the way, when did everyone get married? It's like one day I was out with the guys at Charley's, and then I woke up the next day, shook off the night, and half of my friends were married and the other half engaged. My little sister (22 years old) is already married, as is my step-sister (24) with the nephew. At least I've got that making me feel young by comparison.

I'm not really going anywhere with this. I just realized the other day that I am rapidly becoming my father, who is in turn rapidly becoming my grandfather. Growing old isn't something that happens in front of our eyes. We only notice it after it's happened. I'm growing out of a lifestyle in which my workday spans three days, starting at 10am and finishing at 4pm. Or maybe I'm there already. I'd be able to figure this out more if I could hear myself think, but apparently Gwen Stefani is giving a concert in my next-door neighbor's living room.

*Matt Nolan is the Executive Editor of Res Gestae. E-mail Comments about this article to [mjnolan@umich.edu](mailto:mjnolan@umich.edu).*







# Lonely Litigants Looking For Love, Liability

Submitted by Patrick Barry

## Reasonable Man

Age: 35

Turn-Ons: Prudence, conventional wisdom	Vacation Spots: The Hypothetical
Birthplace: Judicial Opinions	Favorite Book: Ordinary People
Turn-Offs: The Id	Biggest Fear: "Not acting the way I am supposed to."

## Negligent Man

Age: 24

Turn-Ons: Banana peels, wet floors	Favorite Film: <i>Honey, I Shrunk the Kids</i>
Pet Peeve: Conscientiousness	Favorite Song: Oops, I Did it Again
Turn-Offs: Childproofed homes	Last Job: Captain, Exxon Valdez.

## Duty to Rescue Man

Age: 31

Turn-Ons: CPR, The Heimlich maneuver	Favorite Number: 911
Occupation: EMT	Person I most admire: Lassie
Turn-Off: Indifference	Biggest Fear: "Not being there."

## Precedent Man

Age: 229

Turn-On: The Norm	Pet Peeve: Originality
Birthplace: Constitution, Missouri	Biggest Fear: First impressions
Turn-Offs: Coke II, <i>Lawrence v. Texas</i>	Ideal Date: "Whatever I did on the last one."

## In Absentia Man

Age: 53

Turn-On: Long-distance relationships	Occupation: Absentee landlord
Favorite Book: Invisible Man	Height/Weight: Unknown
Turn-Offs: Proximity, contact	Biggest Fear: "Roll Call."

## Nonfeasance Man

Age: 45

Turn-Ons: Passivity, looking the other way	Ailment: Genovese syndrome
Goal in Life: Risk aversion	Biggest Fear: Being called on in class
Turn-Offs: Volunteers, superheroes	Words of Wisdom: "Hear no evil, see no evil, speak no evil."



# An Immodest Proposal: Or, Against Socratism

Submitted by Justin Van Wormer

We have long labored here at Hutchins Hall. But we've done so under a horrendous system of asking and answering that makes slaves of us all. I say to you, the law school community, enough is enough. Enough of the tyranny of Socrates. The Socratic Method has already claimed one life (Socrates); why should we sit idly by until it claims more?

The Socratic Method has been the basic organizing principle of the law school class for decades, if not centuries. I haven't done the research, so let's just say "centuries." But these are times of change. Let us rise up and overthrow Socratic domination of our learning environment so that we can better meet the challenges of the 21st Century. I present three reasons that this method, or "Socratism," as I shall call it—to make it sound more menacing, like Communism—is deficient and unworthy.

First: why should we listen to Socrates? This is a man who had so little respect for his own ideas that he didn't even bother to write them down. And now we have only the word of Plato—some Greek, no less—as to what Socrates was saying and what his methods were. Are you trying to tell me that Plato didn't have his own agenda vis-à-vis American law schools? Really, now who's being naïve? I think we can all agree it's not me.

Second: what proof do we have that the Socratic Method works? "None," is the answer you were looking for. Socrates himself was so ill-served by his method of learning and disputation that the only time he used it in court, he lost. And that was in some local criminal court. If Socrates has never achieved success with his method in court, why should we think that his methods will be helpful to us today? Repeating an experiment twice and expecting differing results is the definition of insanity. And I'm not

insane. Are you? If you disagree with me, maybe you are.

The only real opposition to these common sense changes will come from the liberal professoriate, who are afraid of things and ideas that threaten their (and Socrates') strangle hold on the law. As proof of their influence, did you know that (potential) studies (may) show that more people in Texas read the Baylor Law Review than read the Dallas Morning News. It's (probably) true! (I totally don't understand how the previous two sentences fit, but maybe it's a reference I just don't understand.. I mean I get the newspaper/law review thing, just don't understand how it fits with the liberal professoriate thing.)

Third: in fact, the Socratic Method fails on more than just a practical or procedural level, but on a substantive one as well. The fatal flaw of Socratism is that asking questions of students is no way for those same students to learn. Is not teaching the job of the teacher? Or are our professors too busy writing their secretive law review articles for Baylor? Surely, this is food for thought, my friends.

Consider the following evidence. My friend Bryan audited a business class at CU-Boulder and his TA told him that as long as you don't really mean it, you can totally sign whatever you want and never be obligated by the contract for anything, no matter what else you said. When Bryan told me this, I told him that I thought that it was sweet, and he promptly agreed. Indeed, reasonable people could do no less. Yet, I was dismayed. Not only had I never heard of this before, but not a single other law student I spoke to had ever heard of such a legal rule. Socratism had failed once again. It is the only possible conclusion you can draw, unless you are calling my friend Bryan a liar. And calling my friend a liar would not be cool. I will fight you.

Opposition to Socratism is not only resisted by the professoriate, but by many

of our fellow law students. It's true. I was blocked from publishing this very article as a note in the Michigan Law Review simply because I'm "not on the law review," and this piece contains "no citations to facts." If you believe I have not cited facts, then you are calling my friend a liar, and I have already addressed that issue *supra* as "not cool."

So, without official support I will nonetheless fearlessly give you my four pillars for a new and better legal education:

1. How to look things up on Westlaw/Lexis.
2. How to be a good lawyer (one semester, 3 credits, pass-fail).
3. Learn of the leading cases in order to sound like a Big Important Man in front of friends, relatives, and even strangers on the street who think that they are Big and Important, but are mistaken in that assumption.
4. Develop some loose system of inquiry and argumentation to be used in the classroom that fits within the Western Tradition of philosophy in which the law evolved over the years, mirroring the give and take of the courtroom and encouraging student/professor interaction.

By implementing these simple changes I think we can finally make real progress in developing effective legal education which will contribute to a stronger America. Through my methods we will sharpen our minds, become better practitioners, and, most importantly: I will not be called on when I'm unprepared. I believe that this proposal will lead to not only a more streamlined law school experience, but one that is more true to the demands of the modern workplace. If you don't agree with me, I respect that, but your disagreement means you hate the Framers. And I will fight you.

Justin Van Wormer is a 3L. E-mail comments about this article to [rg@umich.edu](mailto:rg@umich.edu).



**MERRILL, from Page 7**

Changing Light at Sandover.

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This poem is straightforward in terms of the story: the poet is the speaker and he muses on the Victor Dog's life and dreams in a steady ABBA rhyme. The Victor Dog is the little ear-cocked critter that graces RCA Victor recordings. The pleasure in the poem comes from investigating the various musical references and small discoveries. For instance, the line about building a church on acid rock has the double meaning of both the Christian church and 70s acid rock. Word play sings: puns, bizarre slant rhymes, and great sonic texture (if you don't believe me, get someone who knows their music and have them correctly pronounce "Bix to Buxtehude to Boulez").

And who can begrudge the choice finale, where the dog dreams his life and the poet concludes: "Art is art/The life it asks of us is a dog's life." Merrill has taken this little hardworking dog and made him the faithful and companionable and hardworking artist—the poet himself.

*Jay Surdukowski is the founder of the Arrested Development Club. But is it poetry?*



## Latino Law Students Upcoming Events:

### Mr. Wolverine Nominations

Nov. 7-11  
(Table outside 100)

### LLSA Food Fest!

Nov. 8-9  
(Table outside 100)

### Mr. Wolverine Pageant

Jan. 27th

# Letter to the Editor

Regarding the music content of last bi-week's RG:

It's neither entertaining nor informative to read esoteric recommendations that are already forgone conclusions to anyone who has heard of these breezily dropped (band) names or completely irrelevant to the rest of the law school population. The only purpose it could possibly serve is to alert the handful of students "in the know" that you (the author) are also "in the know." In this way it seems to be the journalistic equivalent of hanging a bandana out of your left pocket (having an earring in your right ear), donning the color red in East Compton, smoking clove cigarettes in proximity of a group of particularly moody fifteen year olds, or letting the newest issue of McSweeney's accidentally drop out of your ironic tote bag in front of a girl with a faraway look

and slouchy boots. We get it: You're totally sweet. Please stop wasting editorial space and our time. The next time you want to tell us the scoop about how Vice and Pitchfork told you that you're totally into metal now, put it on your blog, write us an e-mail, or wear a Motorhead t-shirt.

All my best, Steven Le

P.S. I understand that this letter itself could be seen as an effort to show just how much cooler I am than the author is, however it is just because my facebook picture doesn't truly express how wicked awesome I really am in person -- including my surprising torso and equally qualified thighs, killer calves, and limited edition sneakers.



Thanks to donations at "Mardi Gras @ the Phid House" last Oct. 15, Phid House is able to donate \$600 to be divided equally between UNICEF for earthquake victims (<http://www.unicef.org/>) and the Bush-Clinton Katrina Fund (<http://www.bushclintonkatrinafund.org>).

The Phid House thanks all who donated!

Real Estate Law Society presents

## "Using your Law Degree as a Real Estate Entrepreneur"

Friday, Nov. 11th  
12 p.m., 218 HH

Presenter:

Mr. Gregory T. Mutz ('73) is Chairman of the Board and CEO of AMLI Residential Properties Trust (NYSE:AML), a successor company to AMLI Realty Co., which he co-founded in 1980.

Topic:

Mr. Mutz practiced law for three years at Mayer Brown before departing from traditional legal practice to start a career as a Real Estate Entrepreneur. He will tell us how his legal training helped him and how your legal training can help you with a career in Real Estate.

Lunch will be served.



# Michigan Law Announcements

## MELP Voting Rights Initiative Panel on the Voting Rights Act

Panelists:

**Chandler Davidson,**  
National Commission on the Voting Rights Act;

**Debo Adegbile,**  
NAACP Legal Defense and Education Fund;

**Nina Perales,**  
Mexican American Legal Defense and Education Fund

**Jon Greenbaum,**  
Lawyers' Committee for Civil Rights Under Law  
led by Professor Ellen Katz

**Thursday, Nov. 10**  
**4-6pm**  
**250 HH**

*Doctors! Lawyers!  
Business Executives!*

*Please join the Jewish Law Students,  
Jewish Medical Students, and Jewish  
Business Students Associations for*

## Bar Night at Connor O'Neils

*Thursday, Nov. 3 at 9pm*

*Come to the best (and only!)  
Law School Fall Formal!*

*WLSA presents*

## Jenny Runkles Fall Formal

*Friday, Nov. 4 at 7 pm,  
Michigan League*

*Dinner and Dancing! Cocktail Attire!  
Featuring Keynote Speaker Joan Entmacher,  
National Women's Law Center  
Tickets \$25,  
On sale this week outside 100 HH*

## "New Paths for Challenging U.S. Human Rights Violations Since 9/11"

A Lecture by Ann Fagan Ginger '47  
Thursday, Nov. 17, 2005.  
6:30 pm, 250 HH

This lecture will focus on the contents of a new book, edited by Professor Ginger, which includes 180 reports of human rights violations by the U.S. Government and lays out new paths to action for concerned people to take against such violations.

*Sponsored by the National Lawyers Guild, Hopwood Program, Office of Public Service, ACS, ACLU, and WLSA.*

## The Henry M. Campbell Moot Court

Will be holding  
Preliminary Rounds of oral  
arguments on **Nov. 8, 9, 10, and 11.**  
Arguments will begin  
at 6 pm each night.  
All are welcome to attend!

Competitors, please remember to check  
your schedules on C-Tools!  
Good luck!

## Wanted: Your Shoeboxes...

## & goodies to fill them:

**Toys (small balls, cars, stuffed animals, dolls, kazoos, etc.)**  
**Toiletries (toothpaste, toothbrush, soap, comb, barrettes, etc.)**  
**School Supplies (pens, pencils & sharpener, crayons, coloring books, paper, etc.)**  
**Other (hard candy, gum, t-shirts, socks, sunglasses, small books, etc.)**

### Items we can't use:

Perishables like chocolate or crackers; liquids like shampoo or lotion; medications like cough drops or syrup; breakable items.

From now through November 10, the Christian Legal Society is collecting items for Operation Christmas Child, a program of Samaritan's Purse. The gift shoeboxes are hand delivered to millions of children ages 2-14 in more than 90 countries.

You can bring your items to the boxes outside Room 100HH, or stop by the tables outside 100HH at lunch time when CLS members are there to receive your donations.

## Headnotes

Live in  
Concert

Nov. 6  
Lawyers Club Lounge  
8:30 p.m.

(Milk and Cookies  
provided from 8-9 p.m.)