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Virtuous laws are just and beneficial for the community as a whole. Supposedly, virtue guides citizens in seeking good and opposing evil for their community. A virtuous citizenry will promote such virtuous laws. However, recent legislation permitting certain vices leaves us to ponder whether all virtuous laws are, in fact, best for the community or whether permitting certain vices can be beneficial as well.

The theme of this issue of JURIS grew organically around the seven deadly sins — lust, gluttony, greed, sloth, wrath, envy and pride — and whether changes in the law in the areas of alcohol sales, smoking, food and gambling will be beneficial to our community either as virtuous laws or permissible vice laws. We'll let you, the reader, decide.

A recent dispute involving alcohol sales in supermarkets leaves two distinct camps arguing the issue; on one side are the supermarket-restaurants who argue that, as they satisfy the requirements of a restaurant, they should be permitted to sell alcohol in their place of business, and they would see great economic benefit for being permitted to do so. Opponents of the sale of alcohol in supermarket-restaurants argue that the sale of alcohol and groceries are two distinct markets and should not be pooled. They argue that the sale of alcohol in supermarket-restaurants represents an impermissible commingling of markets.

Naturally, following a discussion on alcohol sales, recent changes in smoking laws piqued our interest — namely, the conflict of laws surrounding marijuana and the recent change in prohibitions in outdoor smoking. The conflict of laws arises when state and federal laws are in direct conflict, as certain state law permits marijuana usage that federal law prohibits, leaving those who rely on marijuana for medical treatment in limbo. More broadly, however, new smoking laws are being enacted prohibiting smoking outdoors; most significantly, New York City has prohibited smoking in any of the city’s 1,700 parks and other highly populated open spaces. As a result of this supposedly virtuous law, a natural outcry of opposition to this new law erupted among defenders of personal privacy.

The line has become blurred between good and bad food choices; therefore, there must be checks and balances on modern food law. This argument stems from whether food laws lead us down a virtuous path or whether this path will lead us not to eat anything at all. On one side of this debate are the so-called “veggie libel laws,” or the ignorance-is-bliss side (if you will), which attempt to stop defamatory statements that could harm industrial food producers. On the other side of this debate are organizations seeking to criticize and regulate the food industry, no matter the result, to promote healthy eating. Where do you fall on the need for modern food law regulation?

Finally and perhaps most expectedly, within the discussion of vice and virtue is an examination of gambling laws. Casinos and slot machines were legalized in Pennsylvania in 2004, and since then, there has been uproar on whether the legalization of this vice has caused more harm than good. Opponents of the new law argue that permitting gambling has opened the floodgates to inadvertently harming the well-being of our citizenry through the inevitable participation in other vices. However, despite the fact that proponents of the new law concede that there is harm to citizenry anecdotally, the benefit far outweighs the harm.

Stemming from the vice and virtue theme, we sought to join the international discussion of the recently signed National Defense Authorization Act and determine whether its enactment, namely the provision that expressly authorizes the indefinite military detention of Americans without charges (or trial), is a virtuous law. Its signing was justified by the argument that it vehemently supports the American citizenry and that the provision in question will be interpreted to best protect the American people. However, whether this law is a vice or virtuous law remains to be determined.

Historically, laws that enforce virtuous behavior and prohibit vices have made for a healthy, orderly and vigorous citizenry. However, a shift in this general principle has our citizens questioning whether all virtuous laws are, in fact, beneficial. From time to time, laws must be tested to determine whether they have withstood the test of time or whether a shift in the law is warranted.

Kiran K. Patel is the Editor-in-Chief of JURIS. He is a third-year law student at Duquesne University School of Law. He is also the Executive Research Editor of the Duquesne Business Law Journal and a member of the American Bar Association, American Intellectual Property Law Association, Pennsylvania Bar Association, Allegheny County Bar Association and the Bucks County Bar Association. His academic concentration is in international intellectual property law. He works as a Certified Legal Intern at the Civil and Family Justice Law Clinic in the Family Division of the Allegheny County Court of Common Pleas Pro Se Motions Program. In the fall of 2012, he will be attending Benjamin N. Cardozo School of Law in New York, New York for his Masters of Law (LL.M.) in Intellectual Property. Kiran received his Bachelor of Science degree with honors from Drexel University in Philadelphia, Pennsylvania, in May 2008, majoring in biology and minoring in sociology. He can be reached at kiran.kanti.patel@gmail.com.
Piercing the Veil: Professors Outside the Classroom

For all you current and former law students out there: Did you know that law professors have hobbies, interests and passions outside of making sure you forget what the sun looks like during your first year? In this edition of From the Halls, JURIS profiles three professors — Mark Yochum, Nancy Perkins and Joe Mistick — and gives readers a colorful glimpse into their lives outside of the classroom.

Mark Yochum
Professor of Law, Chairman of the Law School’s Continuing Legal Education Committee, Actor, Playwright, Producer

“I have played all the parts that a guy that looks like me should play in a lifetime,” Duquesne University School of Law Professor Mark Yochum said about his “showbiz” life. This includes over 75 plays, dozens of dinner theater performances, a few commercials and one industrial training video.

His roles have included: Sir Toby Belch from Shakespeare’s “Twelfth Night”; Henry Drummond, a.k.a. Clarence Darrow, in “Inherit the Wind”; Felix Unger from “The Odd Couple”; Mortimer Brewster from “Arsenic and Old Lace”; and Shelley ‘the Machine’ Levene from “Glengarry Glen Ross.”

His first time on stage was in 1959, during his first grade class’ rendition of Rodgers & Hammerstein’s “Getting to Know You.” At St. Elizabeth’s High School in Pittsburgh, he acted in eight or nine plays. Yochum explained he “played all sorts of inappropriate roles,” capping it off with the starring role in his senior class’ production of Woody Allen’s play “Don’t Drink the Water.”

While attending Carnegie Mellon University in the 1970s, Yochum was a member of Scotch’n’Soda, a non-drama student theater group that, over the years, has produced a few stars of the stage and screen. “In 1973, my senior year, I directed and co-wrote the book for a ‘Robin Hood’-inspired rock musical, ‘Woodwind,’” said Yochum. “Mitch Weissman, one of the cast, went on to Broadway to play Paul McCartney in ‘Beatlemania.’”

During law school and his first few years as a lawyer Yochum did not have very much free time. “Practicing law was depressing without a creative outlet,” he said. A co-worker’s (Sid Zonn, now Vice President and General Counsel of Robert Morris University) wife, an administrator at Robert Morris, was looking for someone to play the male part in the two-person romance “Same Time Next Year.” This performance ended Yochum’s short hiatus from the theater, and he then acted in several other plays at Robert Morris.

Since then Yochum has been a member of several local acting troupes. “I performed over 20 shows at the Little Lake Theater in Canonsburg. I was known for, most notably, ‘A TUNA Christmas’ and other ‘TUNAs’ — two-man comedies set in fictional Tuna, Texas.” Yochum played 11 people and “most of the animals — cats, birds, dogs — and half of the women.”

In the 1980s, he moved on to the McKeesport Little Theater, where he was a triple threat: actor, director and producer. It was here that he performed one of his favorite roles, Mortimer Brewster in “Arsenic and Old Lace”; directed “Oklahoma!”; and produced “Little Shop of Horrors,” which won Best Play honors for the 1990-91 season.

In the 2000s, he joined the Terra Nova Theater Group. Occasionally his job and his hobby cross paths. This happened in 2010 when he and a friend from the Terra Nova, Professor William Cameron of Washington & Jefferson College, developed a Continuing Legal Education program based on the Lindbergh baby kidnapping. The program featured scenes from “Violet Sharp,” a play Professor Cameron wrote about the investigation and trial, performed live by actors from the group.

Professor Yochum also enjoys writing plays. “In sixth grade I wrote my first play — ‘Millard Fillmore of Mars’ — inspired by Edgar Rice Burroughs’ character John Carter of Mars.” Since the sixth grade he has written a dozen or so plays.

Last summer his play “La Vitra Loco,” a romance “about old people having sex,” was chosen for a staged reading at the 2011 Pittsburgh New Works Festival, an annual event dedicated to fostering the development of original one-act plays.
In 2000, he won the Best Actor award at the festival for his role in Robert Isenberg’s “Light.” Reviewing the play, Christopher Rawson, Post-Gazette Drama Critic, said “Playing Max, Mark Yochum skates carefully between cute and somber, hinting at something dark. The lecture structure gives scope to Yochum’s actorish force. Ambiguity is already built into his very effective voice, which has a serrated edge and a warm base. This will turn out to be one of the festival’s best performances.”

What’s next on his playbook? He is finishing up work on his newest play, which he describes as “a spooky romance.” In June 2012, after turning in his tax class’ grades, he will be in the cast of Terra Nova’s production of “Lettice and Lovage.” (For more information, check out terranovatheatregroup.org.) Yochum said it will be an interesting show. “I’m a British lawyer in this one. Being a lawyer is a part I almost never play!”

Yochum’s iPod
1. Godzilla (Blue Oyster Cult)
2. I Want to be Sedated (Ramones)
3. Willie the Pimp (Frank Zappa)
4. Kashmir (Led Zeppelin)
5. Concentration Moon (Frank Zappa and the Mothers of Invention)
6. Creeque Ally (The Mamas & The Papas)
7. Helter Skelter (Beatles)

Joseph Sabino Mistick
Associate Clinical Professor of Law, Political Commentator, Dancer

Professor Joseph Sabino Mistick sports a resume a little different than most lawyers. “I’ve been a cab driver. I’ve been a roofer. I moved furniture. I tended bar. I made pizzas. I worked in a gas station. I’d done what a lot of folks do: whatever it took to survive while I was working my way through law school. I’m not unusual in that sense,” he clarified. “Law school is expensive! You gotta do what you have to to make it work. That’s why I have a warm spot in my heart for all my students, and I especially admire those who have a lot on their plate.”

Readers of his weekly opinion column in the Pittsburgh Tribune-Review know Professor Mistick’s affinity for the working man is no secret. “I’m the ‘token liberal’ at the Tribune-Review. It’s been a wonderful place to write because they’ve never changed anything I’ve said, and I have no limits on the topics I choose. The only editorial difference they’ve ever made is to make me sound smarter — and I like that.”

For more of his unedited opinions, viewers can see him Mondays at 8 p.m. on his PCNC show, “Roddie and Mistick,” with the Republican Chair of Allegheny County, Jim Roddey. “We talk about current affairs, and everything in politics from national campaigns down to the more minute local affairs,” Professor Mistick explains.

“We have fun doing it and we do it as a public service. Jim and I disagree on a lot — it wouldn’t be much of a show if we agreed all the time — but we’re gentlemen. There’s no screaming at or talking over each other. We just give a fair exposition of our positions on the issues of the day … we believe in educated civil discourse. Actually, people are surprised because it seems to have gone by the boards these days.” He hasn’t let the fame get to his head though: “If there are ‘Seinfeld’ reruns opposite us — watch ‘Seinfeld,’ he laughs.

Whether he’s speaking or writing, Professor Mistick enjoys sharing his (tactfully framed) opinion. His well-established viewpoint is the product of a comprehensive education tempered by an appreciation for the labor necessary to earn it. “I’m a progressive Democrat. I’m pro-union. I come from a family of union workers and officers, and I believe that unions are vital to the progress of our nation.” Professor Mistick believes that staying relevant depends on keeping your views, and your medium of communication, in flux. “[In order] to stay young you have to change. If you have a message you want to get across, you have to use different forms of media these days; you just can’t rely on one. I struggle, but I try.”

Professor Mistick recently took the opportunity to express himself in an entirely new way: through dance. “Renowned singer-songwriter Carol Lee Espy approached me and asked if I would do ‘Pittsburgh Dancing with the Stars’ for charity.” He qualified his participation: “If I’m a star, they’re reaching very low.”

Not to say that it was easy. “I was assigned the Pasodoble, and I lived in overwhelming fear that I would do something to embarrass myself, so I put an inordinate amount of hours into it — every night, every weekend. I practiced constantly for months so I didn’t misstep — and I didn’t misstep.”

In what little spare time he has, Professor Mistick still manages to find some downtime for less-civic hobbies. “I made wine on a regular basis. I built a wood-fired oven, and it makes great pizza. I cook a lot — mostly Italian. I entertain a fair amount of dinner parties, and friends.” Of all his hobbies, Professor Mistick finds his 1987 Alfa Romeo Spider his most relaxing pastime. “I putz with it all the time. When things sort of get to me, if I just take a long drive out to my mechanic in the woods, everything settles. Everything just becomes OK.”

Mistick’s iPod
1. For Lena and Lenny (Quincy Jones)
2. Against the Wind (Bob Seger)
3. You’re Nobody Til Somebody Loves You (Dean Martin)
4. Una Furtiva Lagrima (Beniamino Gigli)
5. A Sunday Kind of Love (Dinah Washington)
6. Chittara Suona Piu Piano (Nicola di Bari)
7. The Blower’s Daughter (Damien Rice)
8. Jesus Gave Me Water (Sam Cooke and The Soul Stirrers)

Nancy Perkins  
Associate Dean for Academic Affairs and Professor of Law, Singer

Anybody who has had the pleasure of having Associate Dean Nancy Perkins for class can picture her poised at the podium — never late, always prepared and calculated, meticulous in her analyses. Dean Perkins commands the attention of each and every one of her students. You could tell she truly enjoys teaching and finds comfort at the front of the room.

But, if you dimmed the lights, drew the shades and replaced the podium with a baby grand piano, Dean Perkins would be equally comfortable — because she once commanded a room regularly with her singing voice.

Dean Perkins is a classically trained Spinto/Soprano. She laughingly refers to herself now as a contralto — the deepest female classical singing voice — "Because, if you don't use it, you lose it," she said. But, it's easy to picture her up on that stage, sans microphone, as her voice crescendos toward a musical peak.

"Music is still really important to me," Dean Perkins said. "My mother was actually a band singer during the war years, so I grew up listening to Frank Sinatra, Bing Crosby, Billie Holiday, Ella Fitzgerald. And I love Gershwin."

Dean Perkins was engaged in summer theater while attending Mount Holyoke College. As a music major with a minor in theater, she was part of 20-plus stage productions in both an acting and musical director capacity. She even performed in an a capella group in college called the "V8's," where she controlled the pitch pipe.

Dean Perkins pursued a master's degree in voice at the University of Miami, but she never completed the program because, coincidentally enough, she believed the only thing she could do with that degree was teach. She continued performing even though her career led her down a different path. While working in advertising, she participated in community theater and was a part of a troupe that performed the works of Rodgers & Hammerstein, Sondheim and the like around South Florida. Most surprisingly, Dean Perkins even worked as a wedding singer.

Dean Perkins was in the workforce for at least eight years before attending law school at Nova Southeastern in Fort Lauderdale, Fla. By that time, she was singing in the church choir and was married with children. "I used to sing lullabies to my kids, but those days are long gone," she said. As a student at Nova Southeastern, and later as a legal research and writing professor, Dean Perkins participated in the "Faculty Roast," a musical tradition at the law school where students and faculty would roast each other.

A musical background has certainly benefited Dean Perkins throughout her career in law. "The discipline of working in music has helped," she said. "Music can be very analytical and the performance element is enormously useful in law school and in teaching." For now, Dean Perkins hopes to find a new musical outlet. "Now I sing in the shower. I sing when I'm cooking," she said, laughing.

So what could she possibly be singing? "'Love Is Here to Stay' by George Gershwin," she said, "and one of the best songs ever written is 'In My Life' by John Lennon and Paul McCartney."

Perkins' iPod:
1. In My Life (Beatles)
2. Love is Here to Stay (Gershwin)
3. Embraceable You (Gershwin)
4. What a Fool Believes (Doobie Brothers)
5. God Only Knows (Beach Boys)
6. Over the Rainbow (Eva Cassidy version)

Jeffrey Fromknecht is an Executive Editor for JURIS. He is also the Business Manager of the Duquesne Law Review, Philanthropy Chair for Phi Alpha Delta Legal Fraternity and a research assistant for Professor Mark Yochum. Jeff received his undergraduate degree from Allegheny College in 2004, where he majored in Psychology, and a master's degree in Social Work from the University of Pittsburgh in 2007. He currently works at United Cerebral Palsy of Pittsburgh and will graduate from Duquesne University School of Law in June 2012. He can be reached at fromknecht@gmail.com.

Dana Giallonardo is a Staff Writer for JURIS. She earned her undergraduate degree from Lehigh University in 2010, where she majored in Journalism, minored in Communications and Creative Writing, and was an Assistant Editor on the Brown and White student newspaper. Dana will graduate from Duquesne University School of Law in June 2013. She can be reached at giallonardod@duq.edu.

Marissa Cocciolone is a Staff Writer for JURIS. She is also a representative for BarBri and a law clerk for Rewis & Yoder, P.C. Marissa earned her undergraduate degree in 2009 at Washington & Jefferson College, where she majored in English and Professional Writing, and will graduate from Duquesne University School of Law in June 2012. She can be reached at marissa.cocciolone@gmail.com.
During his visit, Judge Posner graciously took the time to sit down and talk with JURIS editors. The conversation focused on this issue's theme of vice and virtue with Judge Posner providing an economic perspective.

JURIS: Judge Posner, you have been invited here to receive the first ever Dr. John and Liz Murray Excellence in Scholarship Award. Can you tell us a bit about what the award means to you?

Posner: Well, somebody must think well of my work. Of course, if it's the first award you don't have a history. Maybe they work up from the bottom [laughter]! That makes sense. I know Professor Murray is very distinguished, and I am honored.

JURIS: The current issue of JURIS is examining the impact of "vice"-related laws. What questions or factors would a student of the economic analysis of law consider; or, put a different way, what is the formula for assessing whether any "vice," whether it be drinking, smoking, gambling or drugs, should be criminalized or legalized?

Posner: If it's an adult vice, then it seems to me the only realistic basis for prohibition is that it does harm to other people. So, if you are a heavy drinker and you've decided that you would rather have a short and happy alcoholic life, you drink yourself to death. Well, that seems to me to be a choice that just affects you. Now, of course, it might affect the family also, but presumably you weigh your family's welfare along with your own. So, if you've decided that whatever harm you are going to do to your family is less than the misery of living a certain way without a drink, then you have a drink.

Adult vices are what John Stuart Mill called "self-regarding" behavior, behavior that just affects yourself. "Other-regarding" behavior affects other people. He thought "self-regarding" acts were not the business of government, and I generally agree with Mill. It's complicated if you have a mental illness and you're not making choices for yourself. Similarly, if you're a child, you're not competent to be making these choices. You don't appreciate the significance of your decisions.

With regard to drugs, it seems to me very similar to the alcohol issue. In some way drugs are less self-destructive than alcohol and tobacco. I have trouble seeing the difference between drugs and alcohol.

JURIS: One of our articles looks at the current legal limbo that medical marijuana is in because of the conflict between some states that have decriminalized it and federal law that flatly prohibits it. Given the incredible cost of these laws, both direct costs in terms of enforcement and incarceration, and also the indirect societal costs, do you think the states are in a better position to gauge where and how to spend their limited resources? Do you believe that regulation is a better choice than prohibition?
Posner: Yes, there's a strong argument for leaving it to the states because there is a lot of cultural diversity in the United States. Places like California just don't consider marijuana to be any sort of problem. I really can't see what the difference is between marijuana and cigarettes. So if [a state wants] it to be legal, whether for medical or nonmedical reasons, I don't see any problem with that. I do not see it as a national problem. I don't know what people are worried about. They say marijuana is a gateway drug. If you use marijuana it will lead to other things. That's probably true, but drugs are enormously available, so anyone interested in trying cocaine or what have you, you can probably find it.

Of course, it would be very interesting to see if marijuana were thoroughly decriminalized in some states and there were no federal consequences either, what happens. Maybe it would lead to an epidemic that would cause serious social problems. We will never know.

JURIS: Your address today is titled “Appellate Decision-Making and Appellate Advocacy.” You have been in your current seat on the federal bench for over 30 years. Do you believe your theory on, or approach to, decision making has changed over time?

Posner: I think it’s changed. When I started I thought that it would be possible to decide most of the cases by applying some pretty simple standards like judicial restraint — that is, being very reluctant to invalidate legislative activity on constitutional grounds — or principles of statutory interpretation that would give a lot weight to the statutory language. Now, I’m more conscious of the difficulty of deciding a lot of these cases. It may be that the law has changed over this period. There’s greater complexity in the issues giving rise to litigation and complexity in the laws that apply. There’s also been tremendous congressional activity and creation of new laws, and new laws are often in conflict with older laws. This creates new uncertainties. I think there [are] actually more challenging decisions and more challenging cases now.

JURIS: In doing research for this interview, we “Googled” your name. One of the interesting hits was the “Becker-Posner-Blog” you maintain with University of Chicago Professor Gary Becker. Why do you have a blog and what value do you see in blogging?

Posner: That is a good question [laughter]. Professor Becker, my co-blogger, it was his idea. He had written a monthly column for Businessweek for many years. He thought he wasn’t getting much in the way of feedback. The problem with writing a newspaper column is that very few people bother to write to a newspaper. But commenting on a blog is the simplest thing in the world. So he thought he’d like to do it with me and so we did. I don’t write about legal issues, because that would interfere with my job; so, it’s basically economic policy that I talk about.

JURIS: Thank you Judge Posner, for sharing your time and wisdom with us, as well as for joining us at Duquesne Law School.
“I didn’t intend to take this journey,” a poised and engaging Lilly Ledbetter said, addressing a room full of attorneys, law school faculty and law students at Duquesne University School of Law.

All it took was a single piece of paper slipped into her work mailbox, an anonymous handwritten note listing the names of three coworkers and their base-pay salaries.

Lilly Ledbetter worked 12-hour shifts as an overnight manager at the Goodyear Tire and Rubber Company in Gadsden, Ala., for nearly two decades unaware of a pay disparity. As one of the first women hired at management level at the plant, Ledbetter endured day-to-day discrimination and sexual harassment but worked hard following a simple lesson learned in her youth. “Everything you’ve got, you’ve worked for. And, you appreciated it,” Ledbetter said in an interview before a speaking event at Duquesne School of Law promoting her 2012 memoir, Grace and Grit: My Fight for Equal Pay and Fairness at Goodyear and Beyond.

When Ledbetter received the “devastating” message shortly before her retirement from Goodyear in 1998, she discovered the indisputable reality that her male colleagues were paid substantially more. Although she had more education, training and experience, Ledbetter was paid 20 percent less than the lowest-paid male supervisor in the same position.

“The first thing that ran through my mind was how much money that had cost me,” Ledbetter said. “I never turned any overtime down. My retirement, and someday my Social Security, was all based on what I was earning.”

With the anonymous note in her pocket, Ledbetter unknowingly began a journey that would take her to the Supreme Court of the United States. After learning of the discrimination, Ledbetter traveled with her husband to Birmingham, Ala., and filed a charge with the Equal Employment Opportunity Commission (EEOC).

“Tired, I had to file that charge. From the time I got that note, it was never about the money. People don’t get money in cases like this,” Ledbetter said. “I went into it because this was not right. Goodyear broke the law, and they discriminated against me.

“This was just not right.”

When her case against Goodyear went to trial, a jury awarded Ledbetter nearly $3.3 million in punitive damages, an amount later reduced to the Title VII statutory punitive cap of $300,000. On appeal, the United States Court of Appeals for the Eleventh Circuit reversed. In its now infamous 5-4 decision, the Supreme Court of the United States affirmed the circuit court’s holding that the claim was time barred.

“Five justices said I should have filed sooner, even though I did not know of the discrimination.”

Ledbetter, bringing a Title VII lawsuit, failed to first file her charge with the EEOC within 180 days after the alleged unlawful employment practice occurred, Justice Samuel Alito wrote in the court’s opinion.

“The Supreme Court got this wrong,” Rona Kaufman Kitchen, assistant professor of law at Duquesne School of Law, said.

Under the court’s holding, Ledbetter’s window to sue for fair pay closed before she knew it was open. But at 70 years old, Ledbetter became the face — and name — behind equal pay for equal work. On January 29, 2009, President Barack Obama signed into law the Lilly Ledbetter Fair Pay Act, his first piece of legislation as the 44th president of the United States.

“The Fair Pay Act had to be passed,” Kitchen, who teaches a course in labor law, said. “The Ledbetter Act codified what had been widely understood to be the congressional intent behind Title VII until the time of the Supreme Court’s 2007 decision. Its signing held immense symbolic significance.

“President Obama had a great person to humanize the reason why we needed this legislation,” Kitchen said.

Under the Fair Pay Act, the 180-day period employees have to file a claim starts anew with each paycheck. Although she will never be able to personally benefit from her namesake act, and even today continues to feel the pay disparity as her retirement benefits are based on the discriminatory pay, Ledbetter has become a champion for equality in the workplace.

“On this journey, I have learned that life throws you curveballs. The true test is not what happens but how we react and stand up for the betterment of others,” Ledbetter said.

Advocating a simple message, one etched on a bracelet she proudly wears to interviews, “Don’t Settle for Less,” Ledbetter tirelessly tours the country fighting for equality, speaking at events and promoting the book that tells her story.

“I talk about what is right: equal pay for equal work,” she said. “We will be on this journey for a long time. There is a lot to be done.”

Bridget Daley is an Associate Editor for JURIS. She is also a Junior Staff Member of the Duquesne Law Review and Co-President of the Women’s Law Association. Bridget earned her undergraduate degree at Duquesne University in 2005, where she majored in Journalism and will graduate from Duquesne University School of Law in June of 2013. She can be reached at bridgejdaley@gmail.com.

On April 16, 2012, Duquesne School of Law, together with the Allegheny County Bar Association Women in the Law Division and Institute for Gender Equality, hosted a luncheon with Lilly Ledbetter.
Are you down for a crazy night on the town? That’s what I thought! Don’t worry about supplies; there’s a grocery store right down the street. Did you know they sell booze there now? I figure we could grab a few six-packs and some cigarettes, and paint the town red! We’ll go to that bar downtown where they still allow us to smoke, and then drive over to the casino, of course stopping at the fast food joint on the way.

Sure we’re not making the healthiest decisions tonight, but it’s not like any of this stuff is illegal. If any of it were, why would it be so accessible? The grocery store, the bar, the casino … those neon lights are just begging us to have a good time on this warm summer night. Now, we just need to figure out which one of us is driving.
Access Leads to Excess

By Jesse Krueger, Staff Writer

To some it might seem ironic that a civilized nation depends so heavily on a chemical with such a wide range of negative effects, but the United States has been utterly dependent on alcohol since even before we repealed prohibition in 1933. Despite the fact that alcohol has been proven to be deleterious to one’s health and mental well-being and a statistically significant factor in a majority of physical accidents and social faux pas, the Pennsylvania legislature has adopted an increasingly lax and, frankly, alarming attitude about its regulation. Since the 21st Amendment put the power to regulate alcohol production and sales in the hands of the state, a patchwork of regulations has developed regarding everything from production to sale to consumption.

The latest controversy in Pennsylvania concerns whether beer should be sold in grocery stores, as it is in many other states. Pennsylvania courts have recently considered whether the regulations of the Pennsylvania Liquor Control Board (PLCB) prohibit the sale of beer and other malt beverages in grocery stores with connected cafes and in convenience stores. Those decisions have hinged primarily on whether the physical space was adequate to establish a separate eating and drinking area sufficient to make it eligible for a liquor license.

The Malt Beverage Distributors Association (MBDA) has actively attempted to prevent the granting of these licenses primarily because they reduce an already limited market and interfere with the success of dedicated beer distributors. However, proponents of expanded beer sales argue that the current regime is too restrictive and leads to high mark-ups, limited availability and a greater degree of inconvenience. What they fail to acknowledge is that while restricting beer sales may naturally lead to some negative effects on the individual consumer, the furtherance of social policies and the beneficial effects on the community as a whole far outweigh the impact of those restrictions.

Like other dangerous substances before it, consumers must recognize the need to make sacrifices to promote the public welfare. Restricting beer sales to certain types of licensed vendors allows the state and those vendors to exercise greater control over the supply. People have long criticized Pennsylvania’s stringent regulations, but refuse to acknowledge that even with such strict laws, alcohol-related crimes run rampant. One can only imagine how much worse the situation would get if beer were even more widely available.

From underage drinking to drunk driving, alcohol-related crimes occur with a higher frequency than most any other type of crime, and yet the state has actively considered relaxing those standards to make alcohol more easily accessible. Any other type of crime that had been steadily increasing in frequency would result in stricter laws, and there is no logical reason why the state should approach alcohol sales any differently. Despite its widespread acceptance within America’s social scene, the fact remains that alcohol shares more characteristics with illegal substances than one would expect considering its prominence within our society. It can be a dangerous substance with addictive properties that is arguably too widely available as it is. Statistics suggest that the average age at which one has his or her first drink has been steadily dropping for the past decade or so — a problem that certainly wouldn’t be helped if beer were suddenly on the shelves next to the milk and eggs, giving the impression that it too should be a part of your daily diet.

Some might even argue that the state should take a greater role in regulating beer sales as it has with liquor sales. The current state store solution in place in Pennsylvania restricts the sale of liquor to state-run liquor stores allowing the state to control the entire distribution process, maintaining the ultimate impact over price, availability and even the hours during which liquor can be purchased. In doing so, the state has taken an industry that otherwise has a pretty significant negative impact on the state as a whole and turned it into a profitable business enterprise for the Commonwealth. Furthermore, the current system allows the state a greater accountability for alcohol sales and greatly reduces the illegal sale and distribution of liquor.

Though the state is not quite as strict with beer as it is with liquor, it should maintain the systems that are in place to curtail its distribution including the prohibition against its sale in grocery stores. Frankly, society benefits when the increased amount of cars on the road are due to inconvenienced drivers running extra errands to specialized alcohol distributors, and not due to drunk drivers happy to have alcohol more easily within reach.

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Free Choice With My Free Samples: Why Allowing Alcohol Sale in Grocery Stores Is a Step in the Right Direction

By Ashley Bozewski, Staff Writer

If you are a Pittsburgher, and you have ever thrown a party worth its salt, you have said to yourself at some point “Why the heck can’t I pick up my Tom Tucker Mint Ginger Ale and my Yellow Tail in the same store?”

Thankfully, the Pennsylvania Supreme Court has interpreted the Commonwealth’s liquor control laws with some semblance of sanity, holding that supermarket stores with adjoining restaurants may sell alcohol for consumption on and off the premises, as long as the applicant requesting a liquor license meets the requirements of the statutory meaning of the word “restaurant.” This ruling has been a long time in the making, bringing the state’s liquor laws into the 21st century, and benefiting consumers with more choice in where and how much to purchase. If the Malt Beverage Distributors Association had its way, however, law-abiding Pennsylvanians would continue to be told when and where they can buy alcohol.

The Distributors Association argues that increasing the availability of beer presents a threat to the Commonwealth’s public health, safety and welfare. However, there is very little substance to this argument. In Malt Beverage Distributors v. Liquor Control Board, The Pennsylvania Supreme Court disagreed, stating that this increased availability “in no way threatens the goal of the Pennsylvania Liquor Control Board to protect the public health, peace, and morals of the citizens of this Commonwealth.” This is the only logical conclusion, especially when you consider the fact that picking up a carton of cigarettes with your Cheerios is in no way illegal.

While irresponsible consumption of alcohol is certainly related to public threats such as underage drinking and driving under the influence, these problems are not exacerbated simply because the alcohol is purchased from a supermarket. Purchasing alcohol in a supermarket-restaurant is no more irresponsible than purchasing the same beer from a distributor. In fact, supermarket restaurants offer smaller quantities of alcohol for sale, while distributors essentially force bulk purchases, usually a case containing 24 drinks.

Consumption of alcohol by a person of legal age is regulated to promote responsible drinking. Precluding a lawful individual from purchasing a smaller quantity of alcohol hardly seems to achieve that end. Of course, let us not forget the fact that people are willing to pay more for the convenience of buying a six-pack. More purchases means more revenue for grocery stores and the Commonwealth alike.

Beer distributors also maintain public policy arguments against permitting supermarket-restaurants from selling beer. Distributors argue that the supermarket-restaurant unfairly encroaches upon the beer distributor’s niche in the alcohol market in Pennsylvania. However, supermarket-restaurants target a different market than beer distributors, catering to the connoisseurs of craft beers, which are often not available at most beer distributors.

This issue boils down to fairness and liberty. Who are these legislators to tell me when I can purchase alcohol, when they seem to have no problem feeding our obsessions with diabetes-inducing sugary drinks and cancerous cigarettes by making them limitlessly available for purchase? Hopefully, the Malt Beverages decision is the first of many logical steps to not only make Pennsylvanians’ party planning a bit simpler, but to ensure free choice in our Commonwealth.

1 8 A.3d 885, 887 (Pa. 2010)

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In 2004, Pennsylvania Gov. Ed Rendell signed into law Act 71, the Race Horse Development and Gaming Act, legalizing casinos and slot machines throughout the Commonwealth. Act 71 also established the Pennsylvania Gaming Control Board (PGCB) which was tasked with, among other authorities, oversight of casino gambling within Pennsylvania. The PGCB was the first new state agency in over 30 years, and by December 2006 the PGCB granted permanent casino licenses to over a dozen facilities across the Commonwealth. Originally only slot machines were permitted in these licensed facilities.

However, by 2010, Pennsylvania lawmakers completed passage of a bill legalizing table games such as poker and blackjack at casinos. Supporters of Act 71 touted the casino revenue as a potential source for relief from high property taxes and to help fund the Commonwealth’s budget deficit.

Many groups opposed the potentially detrimental effects Act 71 might have upon Pennsylvania citizens. Dianne Berlin is the coordinator of Casino Free PA, an organization that vehemently opposed Act 71 and now seeks its repeal by the General Assembly. The legislation itself, Berlin explains, “was unconstitutional...
from the beginning. The law itself started out as a 33-line bill on background checks of people who could work at the racetracks. It was in the House for 47 days with no amendments. It was in the Senate for 100 days with no amendments. All of a sudden, on Fourth of July weekend 2004, everything in that bill was carved out except the title. They added the language allowing the 14 casinos and 61,000 slot machines. There was no time for hearings on the bill, or for citizen input on the bill.” Gov. Rendell signed the bill on July 5, 2004.

Berlin adds that both sides of the political aisle share blame. “There was a lot of homework never done by our elected officials, both Democrat and Republican, in the General Assembly and in the Governor’s Office. Both parties had an opportunity to stop this because we had a Republican-controlled General Assembly and a Democrat in the Governor’s Mansion.” Berlin adds that the property tax argument was presented merely to gain support for Act 71. “There were people who never wanted to vote for this bill, but the savvy supporters knew this hot button topic would push it over the edge. School districts are seeing very minuscule amounts of casino tax revenue, and taxpayers are seeing no relief from excessive property taxes.”

Aside from the legislative implications, Berlin explains, that legislation was not crafted with citizens’ well-being in mind. “We all pay the price, whether we are gamblers or not, when something that causes harm comes into our community. The effects on people’s lives and their families are staggering. We know about the crimes of children being left in cars while parents gamble in the casinos. This is just one of the very few crimes that are actually reported.”

There are countless crimes that are never reported in conjunction with gambling. Specifically, Berlin mentioned “that some people become so frustrated, depressed and shamed up to the point of committing fraud. Very good and caring citizens who never would have considered doing anything like this. Those people are taking from companies they work for. There are numerous examples of banks and small companies that had to close because someone took money from them and they cannot recoup it.”

Berlin emphasized that gambling and suicide is an area of concern that too often is overlooked. “I don’t like to concentrate strictly on addiction, because people who gamble can get into trouble the first time they gamble. However, between 70-90 percent of all addicted gamblers consider suicide at some point; 20 percent of those individuals will commit suicide or attempt suicide. That is not something that should be swept under the rug. Is there really an acceptable level of harm for the government to deliberately and knowingly place on its citizens strictly for entertainment?”

Berlin also dismisses the notion that gambling is nothing more than fun and entertainment. “Gambling is not a necessary activity. Gambling is nothing more than people trying to take something from another person that they did not buy, trade or earn. That description is covered up by the spin that gambling is nothing more than entertainment. People have been entertained right out of their food, clothing and shelter funds. People have been entertained right of their retirement funds and their kids’ college funds.”

Berlin’s opposition to gambling derives from hardship in her own life. “For many years I was an elementary school teacher, and I’ve always cared about children. I feel it’s extremely important for adults to set a positive example for children. Many years after I became involved in this cause, I learned that my father was a gambler. I was not aware of this when I was a child. My mother later told me that my father had gambled away the first home they had owned in a card game. I remember the house, and I remember moving day. I can also remember that things were not the same afterwards. My father was a very hardworking man, but unfortunately those were the circumstances. I understand the consequences gambling can have upon a family, and unfortunately too often people try to win their way out of the problem.”

Regardless of the fact that Act 71 has been law for eight years and casinos are located across the Commonwealth, Berlin suggests that repeal of the law is not only realistic but necessary. “The only way that will happen is if we have elected officials who want to do the right thing for the citizens of Pennsylvania. It would certainly not be easy if our state continues on its one-sided path of only counting the revenue and not the cost. For every operating slot machine one job is lost every year that machine operates, because that money is lost from the general economy. There is no product or service with gambling.”

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Taking the Odds

Why Doubling Down on Legalized Gambling Was a Winning Bet for Pennsylvania

By Nate Ward, Staff Writer

It’s now been six years since the first casino opened in Pennsylvania, thanks in large part to the passage of Act 71, otherwise known as the Race Horse Development and Gaming Act. While some still debate whether the legalization of slot machines and table gaming is positive for the state, the numbers speak for themselves: $9.1 billion in revenue and $5.5 billion in taxes and licensing fees.

Pennsylvania’s 10 casinos grossed upwards of $3 billion in 2011 alone — a 22 percent increase over 2010 revenues. $2.4 billion of that $3 billion total came from slot machine operations — a 6 percent increase over the previous year — while table game revenues more than doubled to $619 million. Those totals translate to over $1.4 billion in tax revenue in the last fiscal year. That’s billion, with a “b.”

At a time when the lackluster economy has forced state governments across the country to slash already-stressed budgets, these tax revenues are desperately needed in Harrisburg to provide necessary services and relief to citizens across the Keystone State.

Pennsylvania now tops all other states with legalized gambling in regard to tax revenue, taking in more taxes than Nevada (Las Vegas) and New Jersey (Atlantic City).
City) combined. That income is thanks to the tax rates imposed by law so that Pennsylvania residents see a significant return on legalized gambling in the state. Slot revenue is taxed at a whopping 55 percent — more than half of which goes directly to property tax relief. The rest is broken up between the Economic Tourism and Development Fund, the horse racing industry, and municipal and county governments. Table games are taxed at a lower rate of 16 percent, with almost all of it going to the state’s General Fund.

While property tax relief varies depending on the school district in which one resides, the average homeowner has received nearly $200 annually. Other areas supported by casino taxes include the state budget, public schools, civic development projects, volunteer firefighting squads, local governments and the horse racing industry.

To offer a few specifics, six projects in Allegheny County this year will each get $500,000 thanks to casino taxes. These projects include: the Civic Arena redevelopment plan, the Bakery Square project in East Liberty and roads and utility lines to facilitate redevelopment of the LTV site in Hazelwood — all areas in need of economic revitalization. Additionally, 2,700 fire, rescue and ambulance companies across Pennsylvania have benefited from $125 million in grants funded by casino revenues.

Pennsylvania’s casinos have also been significant engines for job creation across the state. By 2010, roughly 13,000 jobs had been created — of which 90 percent were filled by Pennsylvania residents according to the Gaming Control Board. Another 8,000 construction and casino jobs are projected once all 14 casinos allowed under the Act are up and running. The introduction of table games has added roughly 4,500 living-wage jobs on its own, via security personnel, supervisors and dealers.

In fact, by the end of 2011, demand for dealers had quickly outstripped supply. Valley Forge Casino Resort, the state’s 11th gambling house set to open this spring, is in need of 250 to 300 dealers. However, it currently only has 90 prospects going through the required training and certification process. Nemacolin Woodlands Resort is likely to encounter the same issue with its newly acquired casino license. Parx, the top-grossing casino located in the Eastern part of the state, also needs 300 additional dealers to accommodate its expansion set for completion this fall.

Harrah’s Chester Casino and Racetrack is undergoing expansion as well and is offering its own dealer-training academy at no cost as an incentive to prospective employees. The demand for dealers right now is so high that wages and benefits in the Philadelphia area alone have become extremely competitive. This is partly due to the fact that dealer certifications are portable throughout the state, making each worker a hot commodity in the table games explosion.

Critics point to numerous problems that negatively affect communities, such as bankruptcies, divorce, debts and mental health issues as a direct result of allowing gambling to take place in our state. Additionally, homeowners point out that their tax relief has not nearly reached the level promised to them by the politicians who championed casinos while the legislation wound its way through the state legislature. There’s no doubt that problems exist anecdotally. However, those same critics fail to acknowledge the significant direct, and indirect, benefits accrued to the state as a whole that far outweigh problems existing on a case-by-case basis. Any way you roll the dice, the numbers don’t lie. The casino boom in Pennsylvania has been anything but a pair of snake eyes.

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When New York City Council voted in February 2011 to pass a law extending the city's smoking ban to parks, beaches and public plazas, it unwittingly created a large public reaction. Some praised the legislation as an affirmative step toward a healthier society, and others decried it as an unjust intrusion on Americans' fundamental constitutional rights.

Smoking inside bars and restaurants in New York City has been illegal since 2002. Five other U.S. cities ban smoking in public parks, including Chicago, Los Angeles, San Francisco, Salt Lake City and Albuquerque. Mayor Michael Bloomberg's signature added New York City to the list on Feb. 2, 2011. Under the law, anyone caught smoking in any of the city's public parks, beaches or in public plazas, including Times Square, could face a $50 fine.

The New York City Council, in enacting this legislation, intended to help reduce exposure to secondhand smoke, cut down on litter in public places, improve health and generally increase the quality of life. Pointing to the deaths linked statistically to secondhand smoke, New York City Council Speaker Christine C. Quinn said she hoped the measure would serve as an example for the rest of the country and the rest of the world on saving people's lives from secondhand smoke.

The extension of New York's smoking ban, however, has garnered strong reactions from opponents of smoke-free legislation. When the law was still merely proposed legislation, a New York Times editorial criticized the potential ban as excessive “nannying.”

Other opponents of the law criticize it as setting a dangerous precedent and argue it is too intrusive. After the New York City Council passed the law, not all on the council shared Council Speaker Quinn's sentiment.

“Once we pass this, we will next be banning smoking on sidewalks, and then in the cars of people who are driving minors and then in the homes,” lamented Councilman Daniel J. Halloran. He further commented that when the 2002 law took effect banning smoking in indoor public facilities, city officials “promised that they would not fall onto the slippery slope” by introducing further legislation on this matter.

To Halloran, the bill violated public trust and vindicated “slippery slope” claims about such “nanny state” legislation. “It is not the business of the government ever to coerce behavior from us,” he said.

While there is no fundamental “right to smoke” enumerated in the U.S. Constitution, proponents of smokers’ rights rely on the fundamental “right to privacy” to argue that smoking is a private choice about which the government should have no say.

Smoke-free legislation, however, has never outlawed smoking completely. Instead, it has been aimed at target areas such as offices, restaurants and bars. Advocates of this smoke-free legislation have pushed to extend its reach to public areas such as playgrounds, parks, beaches and public transit. The New York City Council's legislation serves as a clear example of the successful trend of aggressive smoke-free legislation.

“The decision of the New York City Council to expand its non-smoking ban may signal a national trend,” said Ken Gormley, Dean and Constitutional Law professor at Duquesne University School of Law. “Most likely, this sort of ban will withstand constitutional challenges. Unless the Supreme Court (of the United States) or New York's highest court were to declare that there existed a fundamental right of privacy broad enough to encompass a right to smoke — which seems unlikely — this sort of ordinance will be evaluated under a simple 'rational basis' test,” Gormley said.

Gormley stated that “given the large amount of scientific evidence that has emerged in recent years regarding the potentially harmful effects of secondhand smoke, it would seem that the New York City Council is justified in using its police powers to enact this sort of more expansive ban on smoking, in order to protect the health, safety and welfare of its citizens.”

Opponents of the ban advocate that citizens are entitled to broader privacy rights. Some states do have broader privacy rights that rebel against any governmental edicts that tell their citizens how to live. Therefore, it is not inconceivable that a state with broader privacy rights than the Constitution would oppose the more expansive ban on smoking, Gormley contends, however, that a state such as New York, with its large population, would not adopt such broad standards of privacy that the opponents of the legislation advocate for on this issue.

In the wake of extension of the smoking ban, the New York City Council may not have truly cleared the air. While New Yorkers may be walking around Central Park and Times Square in cleaner air, they are left to ponder whether their lives, liberties and pursuits of happiness are as unencumbered as their airways.
Over the past two decades, state legislatures across the country have put forth and passed numerous bills and referendums addressing the inflammatory issue of medical marijuana; in fact, the House of Representatives of the Commonwealth of Pennsylvania has a bill in committee at this very moment concerning marijuana.

That such a significant and growing number of legislatures have — in one way or another — relaxed the criminal sanctions associated with possession, cultivation and/or distribution of marijuana for medical use has created an interesting legal predicament: Namely, a situation has arisen in which state law and federal law are in direct conflict — as the possession, cultivation and distribution of marijuana all remain criminal under federal law.

Where state and federal laws are in direct conflict, the Supremacy Clause found in Article VI of the United States Constitution provides that federal law is the supreme law of the land. Duquesne Law Professor Raymond Sekula, who teaches Conflicts of Law, explains that, “As a general matter, when federal and state laws conflict on the same issue, federal law will prevail — there are (even) times when federal common law will trump state law when they are in direct conflict. The truth of the matter is,” he notes, “that the founders anticipated such conflicts, and (because of the Supremacy Clause) federal law trumps.”

This legal conflict has led to much confusion for those who rely on marijuana as a form of treatment, as well as those who provide patients with marijuana as cultivators or distributors. All of the aforementioned individuals reside in a state/federal legal limbo. Possession, cultivation and distribution are all illegal under federal law; both patients and suppliers are under constant threat of federal raid and arrest regardless of their compliance with state and municipal regulations.

In an attempt to alleviate some of the confusion surrounding the issue, the United States Department of Justice issued a memorandum to selected U.S. Attorneys in 2009. The memo “provide(d) clarification and guidance to federal prosecutors in states that have enacted laws authorizing the medical use of marijuana.” The memorandum goes on to note that the Department of Justice is “committed to the enforcement of the Controlled Substances Act,” but that it is also “committed to making efficient and rational use of its limited investigative and prosecutorial resources.”

As such, the Justice Department decided the following: “As a general matter, pursuit of these priorities should not focus federal resources in (U.S. Attorneys’ respective states) on individuals whose actions are in clear and unambiguous compliance with existing state laws providing for the medical use of marijuana. For example, prosecution of individuals with cancer or other serious illnesses who use marijuana as a part of a recommended treatment regimen consistent with applicable state law, or those caregivers in clear and unambiguous compliance with existing law who provide such individuals with marijuana, is unlikely to be an efficient use of limited federal resources.”

The memorandum makes clear, however, that the prosecution of unlawful commercial trafficking of marijuana will continue to be fully prosecuted. To that end, the memo lists certain criteria to distinguish between licit and illicit marijuana providers: “unlawful possession or unlawful use of firearms; violence; sales to minors; financial and marketing activities inconsistent with the terms, conditions or purposes of state law, including evidence of money laundering activity and/or financial gains or excessive amounts of cash inconsistent with purported compliance with state or local law; amounts of marijuana inconsistent with purported compliance with state or local law; illegal possession or sale of other controlled substances; or ties to other criminal enterprises.”

As of this writing, 16 states have passed their own varying laws protecting the medical use of marijuana from state criminal sanctions. The first state to enact such legislation was California; in 1996 voters passed Proposition 215, a ballot initiative, with 56 percent of the vote (the proposition...
was later amended by SB 420 in 2003 and AB 2650 in 2010). Under Proposition 215, qualified individuals are protected from state criminal prosecution or sanction. To qualify for a registration card, an individual must only obtain a physician’s recommendation; California law does not limit or list those medical conditions for which marijuana can be prescribed. California’s law allows a patient to possess up to eight ounces of marijuana and/or six to 12 marijuana plants and allows a “primary caregiver” to cultivate plants for an unlimited amount of patients. Furthermore, “collectives” and “co-operatives,” which are regulated by municipalities and/or counties, are permitted to dispense medical marijuana to qualified recommended patients.

The state of Washington followed with Measure 692 in 1998, a ballot initiative that passed with 59 percent of the vote (Measure 692 has since been amended and modified by SB 6032 in 2007, SB 5798 in 2010 and SB 5073 in 2011). Washington’s law does not eliminate the criminal sanctions associated with marijuana possession or protect from arrest; however, qualified individuals are permitted to raise an affirmative defense in court. To qualify for a registration card, an individual must be afflicted with a qualifying medical condition (among those listed: cancer, HIV, multiple sclerosis, epilepsy, Crohn’s disease and glaucoma) and obtain a physician’s recommendation. Washington’s law allows a patient and his/her “designated provider” to possess 24 ounces of marijuana and/or 15 marijuana plants collectively and states that a designated provider may only provide marijuana to one patient at a time. Under SB 5073, localities are tasked with regulating medical marijuana dispensaries; however, because of specific gubernatorial vetoes, Washington law does not provide any clear legal protections for those dispensaries.

In the state of Michigan, voters passed Proposition 1, another ballot initiative, with 63 percent of the vote in 2008. Michigan’s law offers the widest breadth of protection, providing that qualified individuals cannot be subjected to “arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau.” Michigan also honors patients’ out-of-state registration cards. To qualify for a registration card, an individual must have a qualifying condition and a recommendation from a physician. Once registered, Michigan law permits a qualified patient to cultivate up to 12 plants, or to designate a “caregiver” to do so on his/her behalf. Patients can have no more than one caregiver, a caregiver may assist no more than five patients, and caregivers are permitted to receive compensation. While Michigan law does not deal directly with dispensaries, several municipalities have enacted their own dispensary regulations.

In Colorado, Amendment 20, a constitutional amendment ballot initiative, passed with 54 percent of the vote in 2000. In 2010, two bills were enacted to amend the medical marijuana law, HB 1284 and SB 109. In 2011, two more revisions, HB 1250 and HB 1043, were signed into law. Colorado’s law creates an exception from the state’s criminal law for qualified individuals. In order to qualify for a registration card, an individual must suffer from a qualifying condition and must receive a physician’s recommendation. Once registered, a patient may cultivate up to six plants, or designate a specific “caregiver” or dispensary to cultivate on his/her behalf. Colorado has even gone so far as to regulate dispensaries at the state level — an aspect that is absent from other states’ laws, instead leaving dispensary regulation to municipalities — requiring registration through municipalities and the state’s Department of Revenue. Colorado’s comprehensive system of regulation has played a role in the state’s booming marijuana economy. Since the passage of the most recent spate of legislation, the number of dispensaries in the state has grown to over 1,000. To offer a bit of context, this outnumbers Colorado’s Starbucks five-to-one. With a population of approximately 5 million people, Colorado has a medical marijuana dispensary for every 5,000 or so residents.

The Commonwealth of Pennsylvania has a bill in committee in the House of Representatives that could make Pennsylvania the 17th state to allow for regulated prescription marijuana. HB 1653, introduced in 2011, provides that a “qualifying patient shall not be subject to arrest, prosecution or penalty, or denied any right or privilege, for the medical use of marijuana, provided that the patient possesses a registry identification card and no more than six marijuana plants and one ounce of usable marijuana.” Furthermore, the bill creates a rebuttable presumption that a “qualifying patient is engaged in the medical use of marijuana if he or she possesses a registry identification card and not more than the allowable amount of marijuana.” A qualifying patient may also assert the medical use of marijuana as an affirmative defense to any prosecution involving marijuana unless the patient was in violation of the requirements of HB 1653 at the time of the alleged offense being prosecuted. To qualify for a license under HB 1653, an individual must suffer from a “debilitating medical condition” (among those listed: cancer, glaucoma, HIV, AIDS) and medical conditions producing “severe or chronic pain, severe nausea, seizures, severe and persistent muscle spasms.”

Today, the regulation of marijuana for medical use has become complex and contrived, with conflicting rules at the federal and state levels; both patients and providers now reside in a legal uncertainty with no concrete guarantees against federal prosecution regardless of compliance with state laws. As more and more states propose, discuss and pass statutes legalizing marijuana for medical use, the conflict-of-laws problems are only exacerbated. Regardless of one’s stance on the over-arching issue of marijuana prohibition, clarity and consistency in this area are more important now than ever before.

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"[A] salad with a moderate amount of dressing and grilled chicken or fish could be a very healthy option," says an Assistant Professor of Nutrition Science and Policy at a top-tier university in Boston, who asked not to be named. In an exclusive interview with Juris, she explained that the caveat is, "however, [that] in many cases this type of meal enjoys a 'health halo' while in fact being immoderate in the amount of dressing and containing fried meat, resulting in a meal that is very high in overall calories, saturated fat, sodium and even added sugars." The industry exerts enormous pressure on scientists and health practitioners in the United States to promote the foods the industry advertises diligently. Not all the foods that are advertised as healthy deserve this endorsement.

**Veggie Libel Laws**

When Oprah Winfrey exclaimed on national television that mad cow disease stops her "cold from eating another hamburger," she put veggie libel laws in the spotlight. CNN reported that the beef industry lost $12 million because of her 1996 show on dangerous foods, among which she counted
beef. A lawsuit arose. In Texas Beef Group v. Winfrey, 201 F.3d 680, (5th Cir. 2000), the Fifth Circuit ruled that Howard F. Lymann, farmer and animal welfare activist, did not violate the Texas False Disparagement of Perishable Foods Products Act when he stated on the Oprah Show that Bovine Spongiform Encephalopathy (BSE), a.k.a. mad cow disease, could "make AIDS look like the common cold." The "beef industrialist" sued Oprah Winfrey for allegedly defaming their products. At the heart of the case was the Texas False Disparagement of Perishable Food Products Act, an example of veggie libel laws. Little progress has been made since the show aired in 1996.

Veggie libel laws, also called food disparagement statutes, attempt to stop defamatory statements that could harm industrial food producers in various states: Louisiana, Idaho, Mississippi, South Dakota, Texas, Florida, Arizona, Oklahoma, North Dakota, Colorado, Alabama and Ohio. These laws prohibit statements that may reveal the ugly truth about foods sold in supermarkets as being unhealthy or even revolting. Such statements are, of course, harmful to the industry. Large beef and pork producers lobbied those laws into being to prevent the critical but free discourse about their products at the cost of consumers' free speech. The idea that the large food corporations lobbied these laws into being in the very states that produce the staples of the fast food industry is suspicious. When free speech about fast food in those states is restricted, consumers are left questioning whether the companies are hiding something.

Friedrich Nietzsche once stated, "Not when truth is dirty, but when it is shallow, does the enlightened man dislike to wade into its waters." Many of the common perceptions about American staple foods are extraordinarily shallow. When Oprah Winfrey aired her series on dangerous foods, she made a considerable step in sparking consumers' interest. She encouraged the public to wade into the water and explore the origins of everyday foods. Fifteen years later, in February 2011, her campaign to take the "vegan challenge" and eat a purely plant-based diet, as advocated by Michael Pollan, best-selling author and professor of journalism at the University of California, Berkeley Graduate School of Journalism, offered an alternative to the largely unsustainable practices of the food-animal industry and unhealthy food choices: veganism. By choosing mostly unprocessed, sustainably grown, plant-based foods, consumers are empowered to change the industrialized food production around from a vice to a virtue.

Where does food come from?

In an interview with JURIS, Cassidy Miller, President of the Animal Law Society at the Duquesne University School of Law, explained that "more information is being dispersed on factory farming, there are very few laws that protect livestock animals and poultry." She also observed that "even though the United States has passed anti-cruelty provisions for animals, these statutes have an exception for livestock, poultry and other farm animals. If the general population were aware of these conditions there would be an outcry. However, in order to keep prices low, argue the factory farmers, these conditions cannot be altered and attempts to create more humane settings for slaughter are blocked by factory farmers." Joseph Keon and John Robbins debunk the myths of milk’s health halo in their book Whitewash: The Disturbing Truth About Cow’s Milk and Your Health (2010). They explain that milk is not really an important source of dietary calcium and summarize studies linking dairy consumption to several diseases. In fact, the milk sold in mainstream plastic containers at the local American supermarket is not as healthy as consumers are led to believe.

Most consumers know about the obvious media scandals involving mad cow disease, the avian flu from poultry and salmonella from seafood, but these are not the only health hazards associated with eating animals. Cows, pigs, chicken, turkeys and even sheep are treated with antibiotics and hormones to yield the greatest profit margin. One of those hormones is recombinant Bovine Growth Hormone (rBGH) from cow milk that is administered to dairy cows to increase milk production. Sold under its trade name Posilac, rBGH is a genetically modified version of natural growth hormones produced by cows. Monsanto has marketed Posilac as safe since its approval by the United Stated Food and Drug Administration (FDA) in the late 1990s. If consumed by humans through cows milk, however, the hormone triggers elevated levels of IGF-1 growth hormones that are causally related to a higher incidence of preventable types of cancer. Therefore, the recommended daily glass of milk indicated by the ChooseMyPlate.gov campaign and nutritionists nationwide may set off the proliferation of certain cancer types in humans.

Having one's calcium through milk may not be worth the risk.

Whether a risk exists and how it is labeled on prepackaged foods, including milk, falls under the jurisdiction of government agencies, such as the Food and Drug Administration (FDA), and sometimes also involves the USDA and Department of Agriculture (DOA). For the first time, in 2010, a court in International Dairy Foods Association v. Boggs, 622 F.3d 628 (6th Cir. 2010) was faced with the issue of whether milk...
Vices

Association v. Boggs

meat, poultry or fish, as the pictures suggest. Our food comes
diet, but there is no reason to get it from mass-produced eggs,
high in fat and protein and low in carbohydrates as a quick
Robert Coleman Atkins, “going lean with protein,” even nutritionists and doctors
is not a legal excuse, nor is ignorance bliss when it comes to
better to be aware of the truth than to trust blindly. Ignorance
is often unaware of the enormous damage shrimp “farming”
does to our blue planet. Project Seahorse for the advancement of
It finds its partner, will die of a broken heart if its “spouse” dies
she will graduate from Duquesne University School of Law in June of
companies or whole grain bread, and to buy foods from sustainable farming practices! I raise my
glass of organic almond milk to your bon appétit.

from cows treated with rBGH is the same as the milk
of cows not treated with the growth hormone.
According to federal labeling laws under the
Organic Foods Production Act, certain
antibiotics, preservatives and hormones
do not meet the standards required
for organic labeling. The United States Court of Appeals for the
Sixth Circuit held that the
two types of milk are in fact
different and that they should
be labeled as such. Among the
numerous and important issues
addressed in this case is a milestone in food law:
A court acknowledged that genetically modified
foods must be labeled. International Dairy Foods
Association v. Boggs sets an important precedent
for future litigation on the government’s regulation of
such issues.

The seemingly virtuous omnivore’s declaration in response
to a generic dinner invitation is “I’m not a picky eater I’ll eat
anything!” Ignorant bliss in the realm of meal choices may
keep dinner hosts happy, but in discovering the true origin of
today’s most popular foods, the omnivore may stumble onto unexpected vices. The common shrimp enthusiast, for example,
is often unaware of the enormous damage shrimp “farming”
does to our blue planet. Project Seahorse for the advancement of
marine conservation reported that “[a]pproximately 2.2 million
seahorses are caught in trawl nets every year.” A seahorse, once
it finds its partner, will die of a broken heart if its “spouse” dies
in a fishing net. According to the Marine Conservation Biology
Institute, “up to nine pounds of non-target marine life can be
caught for every pound of shrimp — most of which is dumped back into the ocean dead or dying.” Such unintended killings of
seahorses and other marine animals happen often in modern
radar-controlled fishing sprees, and there is little protection for
marine life under the law.

History and precedent have taught us that it is ultimately better to be aware of the truth than to trust blindly. Ignorance
is not a legal excuse, nor is ignorance bliss when it comes to
dietary choices. Although the Food Pyramid now suggests
“going” lean with protein,” even nutritionists and doctors
making such recommendations err. Robert Coleman Atkins,
M.D., late creator of the Atkins Diet trend, promoted a diet
high in fat and protein and low in carbohydrates as a quick
weight loss plan. Nevertheless, the brain needs carbohydrates,
not the refined simple sugars but those from whole grains and
vegetables. Protein, of course, is an important part of a healthy
diet, but there is no reason to get it from mass-produced eggs,
meat, poultry or fish, as the pictures suggest. Our food comes
from animal torture grounds. Miller told JURIS
that “Calves are taken from their mothers
and shipped to factories where they live
in filthy and cramped conditions
where they grow up never being
able to turn around or lay down.”
She continued to describe how
people treat — or fail to treat —
this outrage: “In 2011, 1 million
pounds of beef were recalled due
to e-coli contamination. Animal advocate
groups have used video footage to help stop potential food safety violations and animal
cruelty. However, four states, and many
other states, have pending legislation,
have enacted ‘ag gag’ laws that make it
illegal to photograph or video agricultural
facilities and use such information as evidence.”

Nonetheless, she also explains that little has been done to help
animals from the side of the law. “Footage has been obtained of
sick and injured cows being kicked, rammed, dragged, hosed
and bulldozed with forklifts to force them through the slaughter
process. While many may think this is outlawed, a recent 2008
California law that required euthanasia of sick and/or disabled
animals was overturned by the Supreme Court.”

Consumers find it easier to believe the promises on the
packages than to analyze the lists of small-print nutrition labels.
Few thoughts go to the agony food animals endure or the
processes of stripping whole grains of nutrients to then “enrich”
them. The resulting externalization of the costs of making
wholesome foods creates a nearly insurmountable hurdle to
turning vices into virtues.

Take promises on prepackaged foods with a grain of salt.
Open your eyes to the ugly truth behind the origin of your food
and recognize the warning signs that blissfully unaware eaters
choose to shy away from. Speaking up about vices is part of
natural opposition and an integral element of our entire system
of checks and balances. The food industry needs to be checked
and rebalanced. Vote for healthy foods with your shopping carts
and buy foods from sustainable farming practices! I raise my
glass of organic almond milk to your bon appétit.

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Despite “serious reservations,” President Barrack Obama signed the National Defense Authorization Act (NDAA) into law on Dec. 31, 2011. Authorizing $662 billion in funding, President Obama explained, “I have signed the act chiefly because it authorizes funding for the defense of the United States and its interests abroad, crucial services for service members and their families, and vital national security programs that must be renewed.” The NDAA of 2011 (there is an NDAA passed yearly) imposes new economic sanctions against Iran and initiates programs both to develop counterterrorism initiatives abroad and to contain spiraling Defense Department health-care costs. The act also ballasts the security capacity of America’s international security partners. The President emphasized, however, “The fact that I support this bill as a whole does not mean I agree with everything in it.”

President Obama was referring, in part, to subsections 1021 and 1022. The New York Times, ACLU and Washington Post, among others, share his concerns. Bluntly, while it is unclear whether the NDAA can be used to indefinitely detain U.S. citizens domestically, sections 1021 and 1022 are written to allow the indefinite detention of U.S. and foreign citizens abroad — without trial.

The Armed Forces, supporters maintain, have held the power of indefinite detention for a decade. In the immediate wake of 9/11, the Authorization for Use of Military Force (AUMF), a joint resolution passed by the United States Congress, authorized generally the use of the United States Armed Forces against the parties responsible for the attacks. Under the AUMF, the President gained authority to use all “necessary and appropriate force” against those determined to have “planned, authorized, committed or aided” the September 11 attacks, as well as those harboring or offering sanctuary to such groups. In defense of the military tribunals at Guantanamo Bay and warrantless acts of electronic surveillance, government attorneys have cited the AUMF. The NDAA, it follows, merely codifies this authority, making specific provisions as to its exercise.

Section 1021 of the NDAA governs the “Authority of the Armed Forces to Detain Covered Persons Pursuant to the AUMF.” It “affirms that the authority of the President … includes the authority for the Armed Forces of the United States to detain … a person who was a part of or substantially supported al-Qaeda, the Taliban, or associated forces that are engaged in hostilities against the United States or its coalition partners.” Disposition of a person includes “detention under the law of war without trial until the end of the hostilities.”

Section 1022 deals with a smaller category of people than those covered under Section 1021: namely, whomever the President determines is “a member of, or part of, al-Qaeda or an associated force” and “participated in the course of planning or carrying out an attack or attempted attack against the United States or its coalition partners.” Section 1022 (a) requires that such persons be held “in military custody pending disposition under the law of war.” While the section title is “Military Custody for Foreign al-Qaeda Terrorists,” opponents argue that the definition of to whom it applies neither excludes U.S. citizens nor includes any foreign-born requirement. Opponents further hold that while the requirement of military detention in section 1022 does not apply to U.S. citizens, it does not exempt U.S. citizens from the authority to be held in military custody.
presumably without trial until the cessation of hostilities. According to Michigan Sen. Carl Levin, “the language which precluded the application of section [1021] to American citizens was in the bill that we originally approved in the Armed Services Committee, and the administration asked us to remove the language which says that U.S. citizens and lawful residents would not be subject to this section.”

Sub-sections 1021 and 1022 are exactly what the war on terror requires, maintain senators Lindsey Graham (R-S.C.), Kelly Ayotte (R-N.H.) and Levin (D-Mich.), chairman of the Senate Armed Services Committee. The bill simply removes legislative uncertainty and codifies precedents set by the Supreme Court, all for the betterment of national security. As Sen. Ayotte argued during the Senate’s ratification of the NDAA, “We have to protect America and make sure that we get the maximum information to prevent future attacks on this country.”

Advocates continue that the NDAA does not permit truly “indefinite” detention, as the period of detention is limited by the duration of the armed conflict. They emphasize the difference between detention pursuant to the “laws of war” and detention pursuant to domestic criminal law. Essentially, since detention under the AUMF is authorized under the laws of war the authority to detain ends with the cessation of hostilities. Thus, the detention cannot be indefinite. Advocates hold, again, that the NDAA invokes existing Supreme Court precedent that permits the military detention of citizens who have engaged in or supported hostile acts to the extent that they are properly classified as “combatants” or “belligerents.” Accordingly, if the detainee is an enemy combatant who has not violated the laws of war, he cannot be charged with any triable offense. These advocates emphasize the need to highlight the distinction between domestic criminal law and the laws of war.

Mother Jones magazine maintains that such logic “is the first concrete gesture Congress has made towards turning the homeland into the battlefield,” arguing that “codifying indefinite detention on American soil is a very dangerous step.” The ACLU, likewise concerned about the scope of the President’s authority and the potential interpretations of the NDAA’s vagaries, stated “the statute contains a sweeping worldwide indefinite detention provision…[without] temporal or geographic limitations, and can be used by this and future presidents to militarily detain people captured far from any battlefield.” The ACLU also maintains that “the breadth of the NDAA’s detention authority violates international law because it is not limited to people captured in the context of an actual armed conflict as required by the laws of war.”

In a statement released upon signing the NDAA, President Obama said, “Ultimately, I decided to sign this bill not only because of the critically important services it provides for our forces and their families and the national security programs it authorizes, but also because the Congress revised provisions that otherwise would have jeopardized the safety, security and liberty of the American people.” Obama said his administration will interpret the provisions in a way “that best preserves the flexibility on which our safety depends and upholds the values on which this country was founded.” How the NDAA will be interpreted by future administrations remains to be seen.

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Do the crime. Pay the time. Pardon me. The American penal system emphasizes rehabilitation, but even after an offender has served out the requisite sentence, a criminal record may forever tarnish life after a conviction. That is, unless the offender seeks clemency. In Pennsylvania, the granting of a pardon relieves an individual convicted of a crime of the consequences of that conviction, which generally include legal disabilities such as the ability to manage or administer financial affairs as determined by a court. The Commonwealth’s Board of Pardons states, “Pardon constitutes total forgiveness by the state, makes the crime as if it never happened and allows a job applicant to deny he was ever convicted of the crime without worry of any sanction.” To the offender, as Justice Horace Stern once wrote for the Pennsylvania Supreme Court, a pardon “blots out the very existence of his guilt, so that, in the eye of the law, he is thereafter as innocent as if he had never committed the offense.” Com. ex rel. Banks v. Cain, 28 A.2d 897, 899 (Pa. 1942).

This year the Pennsylvania Pardon Board will review the application of Ms. Carol Ramsey, a woman petitioning the Commonwealth of Pennsylvania to purge a slew of charges stemming from her past drug abuse, including many charges related to retail theft. Carol Ramsey, 60 years old, was a drug user, abusing heroin and cocaine for 25 years. Today, she has been clean for 19 years and is currently working as a mentor to women in the early stages of recovery.

Ms. Ramsey said that she found out about the Urban League’s Pardon Clinic through an email she received at her job. She originally went to the Urban League Pardon Clinic to seek information for the women she mentors to see if the program could provide assistance to them. When she arrived, however, she thought that the program could be beneficial for her as well.

Ms. Ramsey started the pardon process during the summer of 2011. She notes that the process involves a lot of hard work, and may take as long as two to three years to complete. Ramsey said that she had to pay for the application from the Pardon Board, as well as obtain her criminal record and court records. Ramsey then had to go through the process of sifting through all of the aforementioned records in order to properly fill out the pardon application; the application required detailed information relating to all previous crimes, including the judges’ and lawyers’ names associated with each conviction.

Although clemency and a fresh start may be pursued, the process can be arduous. Many individuals need guidance, and the Law Clinic at Duquesne University School of Law is one of the possible outlets individuals may turn to seeking assistance. The Bill of Rights-Civil Rights Litigation Clinic has worked closely with the Formerly Convicted Citizens Project and the Urban League of Greater Pittsburgh to directly impact individuals in the community by assisting previously convicted individuals with completing pardon applications. Students in the Bill of Rights Clinic have continued to work with the Pittsburgh Branch of the NAACP to assist their constituents with discrimination cases in the areas of education, employment, housing and public accommodation.
Ramsey admitted that the process was challenging, and that at times, she did not know how to go forward, because she was not very good at typing, nor was she computer literate. Ms. Ramsey went to the Pardon Clinic and found Duquesne Law students that were willing to help her fill out her application. Today, Ms. Ramsey is almost ready to send in her application (with the $25 filing fee). “When I first went to Pardon Clinic,” she says, “it was incredibly overwhelming. The amount to do [was] very discouraging. I had to take some time to get in the right mindset in order to start this process.”

When her application is received, Ms. Ramsey said that a parole officer will come to talk to her and “dig into your life to see how you are currently living.” Ramsey had six letters of support from family, friends, co-workers and women she has mentored to provide information to the Pardon Board. If a hearing is granted at the end of the process, Ramsey will have to go to Harrisburg to meet with the Pardon Board. If her application is accepted, then a public notice will go out that she is being pardoned.

When asked if the pardon process is something that others could benefit from, Ramsey noted that “Yes, this is an option for others, but I do not think this option is readily available for other individuals. People seem to think that expungements are the only option to clear a criminal record but an expungement is only for misdemeanors or summary offenses. A pardon can be for any type of crime. I think this is an option for the women that I mentor. Many of them don’t have the extensive record that I have and they may be better qualified to obtain a pardon.”

Ms. Ramsey’s application was likely to have been submitted prior to May 2012. She explains that the biggest benefit to her is that the process will prove that she has changed, and hopefully that the system that “I took from for so long will see that I have changed.” It will be gratifying, she says, and will build her self-esteem. More, she says that it will clear and get rid of the wreckage from her past. “I am getting older,” Ramsey says, “and one day I may want to obtain a high rise apartment and my criminal record might prevent that. Also, I am a single woman and may want a part-time job later in life, which could be stopped by my criminal past.” Ramsey hopes that these doors will be re-opened to her after the completion of the pardon process.

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The process of obtaining a pardon begins with an individual sending a formal application to the Pennsylvania Board of Pardons. The board weighs many factors in evaluating the application and will consider the time that has elapsed since the commission of a crime, compliance with court requirements, positive changes in the applicant’s life, the specific need for clemency and the impact on the victims, to name a few. Once this paperwork is filed, the board will prepare a report describing the criminal offense charges. The pardon process will only move forward to the hearing phase if two of the five board members approve the applicant’s file. At a formal hearing held in the Supreme Court in Harrisburg, the applicant has the opportunity to present his/her request. Only after a favorable vote of the majority and approval by the governor will clemency be granted. In the chance of an unfavorable vote by the board or disapproval by the governor, the applicant may request reconsideration or reapply. More details on the pardon process in Pennsylvania can be found at: www.bop.state.pa.us.
One year in and the revamped JURIS_Blog is still going strong. Posts are submitted by JURIS staff writers and accepted from the student body at large with the goal of supplementing JURIS Magazine with timely legal issues, local news and other items of student interest. With this year’s progress, all signs point to JURIS_Blog continuing to help more Duquesne University School of Law students have their writing published and give voice to the next generation of legal minds. More content, more current, more JURIS at duquesnejurismagazine.blogspot.com. The following are excerpts from recent blogs.

Why we shouldn’t hate Judge Wettick
By Jeffrey Kranking, JURIS Blogger

Amidst the political backdrop from his decision for the 2012 property assessment, Judge R. Stanton Wettick Jr. has been tossed into the crosshairs as he continues to endure a proverbial heat-down from city officials, the media and pretty much anyone owning a scrap of land in Allegheny County.

With the media now boasting that the aggregate value of property in the city has been raised 56 percent, not surprisingly, people are going to be a little upset. Many have been left asking “why did the judge order the new assessments,” or “why did my assessment value double overnight” while others are going as far as labeling Wettick a “political activist” or even “a complete idiot” etc. So I ask, does Wettick really deserve this type of treatment?

For starters, not only did Wettick know that an order to carry out a new assessment would mean that many residents’ property taxes would actually go down, but he was ordered by the PA Supreme Court to do so.

Legislators are reviewing ways for the insolvent to discharge student loan debt
By John Sembrat, JURIS Blogger

As we look to the future, legislators and the U.S. Supreme Court are redefining the way we acquire and manage student loans. Federal and private student-loan debt is approaching $1 trillion and surpassed credit-card debt for the first time in 2010, according to Mark Kantrowitz, publisher of FinAid.org, a college grant loan website. Under U.S. law, student-loan debt — unlike credit-card borrowings — can rarely be discharged in bankruptcy court.

While Bankruptcy law can help those persons succumbing to overwhelming financial pressure, bankruptcy proceedings are not for the faint of heart. The bankruptcy process is a lengthy, complicated legal process. That process is not one which normally lends itself those hardships that are associated with student loans. Currently, section 523(a)(8) of the Bankruptcy Code permits the discharge of student loan debt only if excepting the debt from discharge would “impose an undue hardship” on the debtor and the debtor’s dependants. This element has been described as “difficult to satisfy.” For those flattened by student loan debt, few other options are available through the bankruptcy court. The U.S. Supreme Court recently reviewed a case involving this other option.

Vague hazing laws lead to under-prosecution
By Jennifer Dickquist, JURIS Blogger

In November 2011, Robert Champion, a member of the Florida A&M University’s Marching 100, was the victim of a “hazing ritual” on a bus on the way to a football game. This ritual involved running from one end of the charter bus to the other end while other members punched, kicked, slapped and stomped him. Within an hour of the attack, as a result of the blunt force blows, Champion died. Then, in January, three students from the same marching band were arrested for performing a hazing ritual on other prospective members of the band. Again, the ritual involved slapping, paddling and punching. While those three students have been arrested, no one has yet been charged with the death of Champion, even though the bus was filled with witnesses. The parents of Champion have filed a wrongful death suit against the bus company and the driver of the charter bus.

While almost every college organization has a “zero-tolerance” policy for hazing, every year more than 50 percent of college students participating in a student organization such as sports, performing arts, fraternities and sororities are subjected to hazing. Hazing is defined as any forced activity that is physically dangerous or emotionally degrading and required in order to gain membership into an organization.

It is an all too common problem that the individuals who are responsible for hazing deaths go unprosecuted even when substantial amounts of evidence may be available.

PIPA and SOPA’s attempts to regulate Internet content met with fierce opposition and tabled for now
By Eric Donato, JURIS Blogger

The debate pitting major media corporations against a diverse coalition of public interest groups and technology companies would have culminated on January 24 with a Senate vote on the PROTECT IP Act [PIPA], the law that intended to reduce the prevalence of unauthorized copyrighted content on the Internet. PROTECT IP, and a similar bill introduced in the House called the Stop Online Piracy Act [SOPA], set off a tumultuous public discussion on the topic of Internet piracy when they were introduced last year, and amid mounting opposition from the public, freedom of information advocate groups, and tech giants including Google, Facebook, and Twitter, were recently abandoned.

PROTECT IP would have allowed the Justice Department to obtain court orders against foreign websites accused of copyright infringement, and with proper service of the order, allowed the Justice Department to direct US-based Internet service providers, advertisers, banks and payment services to cease doing business with the website that hosted the infringing material. This would have effectively shut down offending websites hosted by servers in the United States. The bill also could have barred search engines from linking users to offending sites.
CHANGE SERVICE REQUESTED