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D I C T A

THE ABSOLUTELY UNOFFICIAL E-MAGAZINE OF THE WILLIAM S. BOYD SCHOOL OF LAW STUDENT BAR ASSOCIATION.

October, 2004

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WELCOME BACK!

Welcome to this school year's first issue of DICTA. We hope to get this out on a monthly basis (or more often, depending on how the hangover is going on any particular day). If you think you're capable of writing for us (and you probably are not, but no need to crush your spirits at this early point in the game), send ideas for submissions to the Editor at tgross@unlv.nevada.edu. If you REALLY have your heart set on writing for us, gifts of cash always help.

WELCOME 1Ls

DICTA would like to extend a special welcome to this year's 1Ls. To help you out in your difficult first-semester transformation from socially inept but basically decent people into socially inept and heartless vermin, DICTA is offering these long-known but never-before published tips:

1. Many of your professors went to top-tier law schools. What you might not know is that such schools, being

elite and long-established institutions, have certain secret traditions. If you know about these, your profs will think that your parents must have attended the same schools, and grant you certain privileges. For example, if you are called on to discuss a case in any class taught by a prof who went to Harvard, you can get out of having to speak by employing the Secret Harvard Pass trick. Stand up, spin counterclockwise three times, and say loudly "MY IPSA'S BEEN LOQUITORED, SLAPPY!" Your professor will not only call on someone else, but will give you extra participation points.

2. Each year, a slot on the Society of Advocates is given to the most obnoxious person on the student Listserv. The more you seem to be infuriating people, the better chance you have of being asked to join SoA.

3. There is nothing that shows an LP professor how astute you are than asking "is that how it's done in the

real world?" every time they teach you something new.

4. Law & Order is the most meticulously researched Crime Drama in the world (although its spinoffs are not). Make yourself a bracelet that reads WWJMD (What Would Jack McCoy Do?). Any time your professor says something that doesn't pass the WWJMD test, don't bother taking notes, as your professor is suffering an acute bout of dementia.

OCTOBER 8: FREE FOOD, MUSIC, LIBATIONS, AND AN OPPORTUNITY TO MINGLE WITH THE ENTIRE LAS VEGAS LEGAL COMMUNITY

The law firm of Craig P. Kenny and Associates will be holding its annual party on FRIDAY, OCTOBER 8TH. This party is held in honor of the students, faculty and staff of the William S. Boyd School of Law. Many attorneys and jurists also show up, so get your networking shoes on. Catered dining, live music, and various libations are provided. The festivities start at 5pm and will run probably until the wee hours of the morning. The location is:

**Craig P. Kenny & Associates
723 S. Seventh Street
Las Vegas, Nevada 89101**

On a personal note, your editor has attended this event for the past four years, and it has never been less than a rockin' good time. Do make sure to arrange a ride home if you think there's a possibility that you might wind up impaired. Of course, given that your potential future employer might be

there, you might want to avoid getting overly impaired in the first place...

**PRACTICAL LAWYERING SKILLS
Part the First: Wherein Your Intrepid Narrator Identifies Both a Cause of Action and the Bums Responsible Therefore.**

Contrary to your grandpa's¹ rants about "damn shyster lawyers go around suing everyone for anything if someone gets hurt and what the hell happened to personal responsibility I'll tell you what it's these damned trial lawyers suing everyone and that's why we're turning into a Nanny State and that's why I can't drink a can of beer anymore while driving what the hell right do they have to tell me I can't have a beer while driving to my Elks meeting I didn't fight in The Big One and Korea so that the damned government could tell me what to do I'm a senior citizen dammit and I wrote my Congressman about this crap but he doesn't answer my letters anymore I'm voting the bum out of office he says he's a Republican but I think he's a damned liberal in disguise and I think it's time that we sue them before they sue us..." you probably SHOULD have a cause of action prior to initiating any suits, lest opposing counsel write a Rule 11 motion and politely request that the judge roll it up and use it to beat you about the head and shoulders.

¹If you are not blessed with a relative who froths at the mouth over trial attorneys, the legal profession in general, or secret conspiracies to install a one-world government, but wish you were, I suggest simply reading Vin Suprynowicz's weekly column in the *Sunday Review-Journal*. However, I must warn you that his columns are a little less coherent than the cranky grandpa-rant example given here.

Fortunately, you need not drive to Southern California for a weekend of jumping in front of traffic² to sustain damages. As a law student, you will soon learn to spot potential causes of action as easily as you fail to spot issues in finals. Of course, you don't need to use the Cause of Action I did, but unlike your planned Intentional Infliction of Emotional Distress tort action against your mother because she grounded you from going to your senior prom after she caught you huffing her nail polish remover, mine is actually valid. I chose as the basis of my cause of action the Telephone Consumer Protection Act of 1991. The TCPA not only prohibits the sending of junk faxes³ but creates a private cause of action⁴.

I had heard of this, but did not give it a lot of thought until one day last April. I had called in sick to work and was sitting at home in a furious mood over wasting a sick day on actually being sick. My phone rang, and I heard the annoying mating warble of data transfer. Having been half-expecting a fax from work, I turned on my machine, and out slides an ad for cheap health insurance. Suddenly, I had an outlet for my foul mood- I would fax a nasty YOU EVER FAX ME AGAIN AND I WILL SUE YOU BUMS note to these bums! I happily dialed the contact number on the fax and asked the person on the other end for a number to

²A note to our readers who are recent arrivals to the Silver State: Nevada doesn't put up with any of that "pedestrian always gets automatic right-of-way" silliness. Try that stuff here and you'll be street pizza. Just thought you should know- welcome to Las Vegas.

³47 USC §221(b)(1)(C)

⁴47 USC §221(b)(3)

which I could fax something back⁵.

The operators on the other end happily provided me with a fax number to which I was free to reply; but there were two minor problems with this number. First, it was not a fax number, but a cell phone voice mailbox, and second, when the owner of said cell phone called me back to see who was calling her from a strange area code, it became clear that she was not affiliated with the offending parties. I called back several times and was supplied with several different numbers, all similarly invalid.

I finally decided to run the company name listed on the junk fax through Google and see what came up. Serendipitously enough, one of the first things listed on the results page was an online copy of the Citation that this company had been sent by the Federal Communications Commission, where in 1) the company was notified that their fax-spamming violated the TCPA, 2) they were notified that they were therefore liable for \$11,000 in fines for each junk fax sent after receipt of the Citation, 3) they were put on notice that they were also liable for triple damages under private actions as the citation provided notice that they were in violation of the TCPA, 4) they were told to cease and desist their evil, spammin' ways. Mind you, this gold strike of a document also contained the offender's mailing address. Sometimes the Gods of Findin' Things on the Internet⁶

⁵The "from" number at the top of the fax was my own- tricky bums hid their own number. Probably a software trick of some kind. Nerds.

⁶Our non-religious readers may not be familiar with The Gods of Findin' Things on the Internet; let me assure you, they are many and mighty. A few of the more commonly-known ones are:

are kind.

It was at this point that I was struck by the idea of pursuing this cause of action, recording my experiences, and providing it as a public service for those of you in law school who do not work for firms or otherwise go around suing people. Tune in next month, Dear Readers, when I will regale you with lusty tales of *The Blackmail That is Not Blackmail* (more commonly known as “the demand letter”), whether it worked, and what happened next.

HAIKU CORNER

This month, *Dicta* offers summaries of your required classes in haiku format. All you need to do is remember seventeen syllables for each class and you’re done with studying for the next 1 ½- 2 years (depending on whether you’re in the day or night program). As usual, *Dicta* assumes no responsibility for damages arising from you being stupid or gullible enough to actually follow our advice.

CONTRACTS

Consideration,
offer and acceptance; you
really need all three.

Disgusto the Simply Wrong, (who will lead your browser to the site where there are pics of your dad’s second wife without any clothes on), **Stalkerina the Loaded, Nostalgic, and Crazy** (who gives your ex-girlfriends and/or boyfriends the power to hunt you down over the internet so that they can call you at 3 am after a marathon bout of heavy drinking), and **Cletus the Trickster** w(ho changes all of the links in e-mails sent to your work account by friends so that rather than leading to something fairly innocuous, they lead to a pink slip for “accessing obscene materials from a work computer on company time”).

TORTS

Assault, battery,
false imprisonment, trespass.
Tort: Latin for “fun.”

CONSTITUTIONAL LAW

Plessy and Bowers
are dead. Due process is not
just for straight white guys.

CIVIL PROCEDURE

The *Erie* doctrine
and *International Shoe*
can bite my in rem.

CRIMINAL LAW

Mens rea alone’s
not enough (Mr. Ashcroft
may disagree, though).

PROPERTY

To hell with that fox
and with future interests.
May I be excused?

PROFESSIONAL RESPONSIBILITY

Don’t commingle funds
and try to avoid having
sex with your clients.

LAWYERING PROCESS

The prof just loves your
work. But your first employer
will simply hate it.

DEPARTMENT OF RIPPED-OFF CONCEPTS: TOP TEN WORRIES FOR 3Ls/4Ls GRADUATING THIS YEAR

- 10 Sedentary law school lifestyle results in being too out-of-shape to chase ambulances.

- 9 “Will I be fired from my first job for having citations in ALWD rather than Blue Book format?”
- 8 Wondering if learning how to write a Supreme Court brief in LP III will compensate for the fact that you haven’t the foggiest notion of how to write a demand letter or file a motion.
- 7 The sudden realization that although you can’t stand your classmates, 3 or 4 years of law school have rendered you completely unfit to converse with anyone else.
- 6 “How am I going to make a commercial for my solo firm that can top the ones Glen Lerner does?”
- 5 Are those four convictions for dealing crack going to negatively affect my character and fitness report?
- 4 That disconcerting rumor about the Nevada State Bar deciding that (so long as it doesn’t cause as much pain as, say, organ failure), torture is allowable to verify what’s in your character and fitness report.
- 3 That nagging feeling that your stated desire to do as much pro bono work as possible really isn’t impressing the all the law firms with whom you’ve been interviewing.
- 2 Finally realizing that you really, really hate law.

- 1 Graduating in top 10% of class (with law review and moot court), and finding all the really sweet clerkships have been taken by LP profs.

DID YOU KNOW?

Actor Jan-Michael Vincent not only graduated *summa cum laude* from Yale Law School, but clerked for the Honorable Earl S. Warren. Apparently, the pressure of attending a top-tier law school and then working for the Chief Justice of the U.S. Supreme Court is enough to send a person running to Hollywood and (eventually) a starring role in *Airwolf*.

IN NEXT MONTH’S ISSUE

- Part II of the Practical Lawyering Skills saga!
- More Secret Tips for 1Ls
- Ten Most Intriguing Prostheses Worn by Judges of the Ninth Circuit
- New Advice Column: Ask the Alum

And the number one Worries for 3Ls/4Ls Graduating this Year is....