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MOTIONS

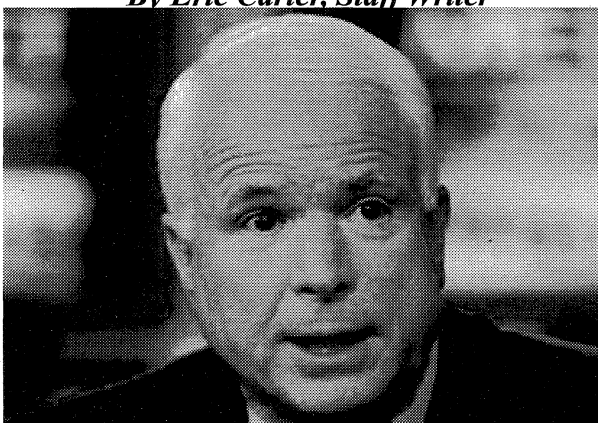
UNIVERSITY OF SAN DIEGO SCHOOL OF LAW

Volume 44, Issue 1

September 2008

Support McCain?

By Eric Carter, Staff Writer



The Economy

Obama has called for a combination of tax increases and trade protectionism that any Econ 101 student would recognize as economic folly. Obama's argument that he would only raise taxes on the "rich" ignores his tax increases on capital gains and dividends that would affect millions of middle-class investors. Most significantly, these investment taxes and his proposed tax increase on high-income earners - many of whom are the small business owners who create most U.S. jobs - would weaken an already-fragile economy by reducing incentives to invest and open businesses. Furthermore, this tax money would not be used for deficit reduction. Instead, Obama has already pledged hundreds of billions of dollars in new spending, not including the abundance of pet projects and earmarks that a Democratically-controlled Congress and White House will likely bring. Obama also supports a unilateral cap-and-trade carbon emissions plan that would drive up oil prices and send jobs and carbon emissions to China and India.

In contrast, McCain has proposed making the Bush tax cuts permanent, reducing taxes further on business to stimulate new investment, and retraining laid-off workers for the jobs of tomorrow. He would reduce the deficit by cutting spending, starting with the pork programs he has fought for so many years and continuing with many of the Republican spending proposals he voted against while in Congress. McCain also supports a cap-and-trade carbon emissions plan, but his plan is not unilateral and would therefore include the interests of rising industrial powers like China and India.

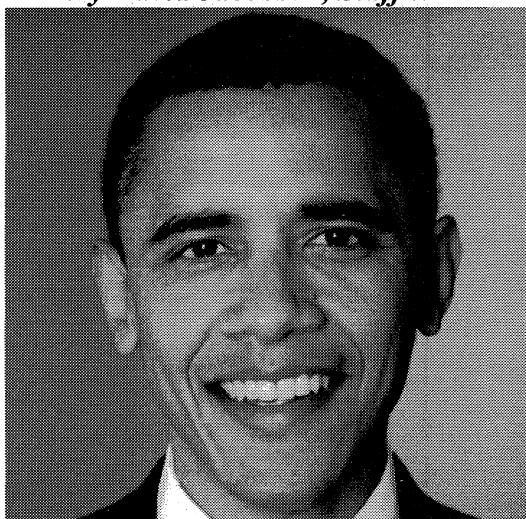
The War

McCain called for the resignation of former Secretary of Defense Donald Rumsfeld after his mishandling of the war and stood up to both "stay the course" President Bush and "cut and run" Democrats in Congress in advocating the strategy that is now winning in Iraq. Both candidates want to end the war and withdraw troops, but because of McCain's judgment, we will be able to do that with honor.

See McCain, page 3

Or Support Obama?

By David Jacobsen, Staff Writer



Wilsonianism is essentially the view that the masses are incapable of properly governing themselves -- that the mechanics of any well-oiled "democracy" should be helped along, guided, and, if possible, completely controlled by the unseen clandestine forces and entities better equipped to handle political decision making than the average unenlightened individual. It is perhaps telling that this undemocratic principle was named after one of the United States' very own former Presidents. For even a modicum of attention paid to the apparent manufactured consent initiatives of the American media suffices to suggest that this view is adopted by and implemented by the *true* decision makers of our country, whoever they may be.

While I haven't the time nor the space here to argue either for or against the tenets of *Wilsonianism*, and while I haven't the privilege of perspective to discern the extent to which it actually does prevail in the American polity today, I do wish to suggest that the concept, having seeped into the public's subconscious, has had a profound negative effect on voter turnout. I do not, however, think this response to what is no doubt one of the most politically discouraging and apparently hopeless eras in our country's history is the appropriate one. I admit there was a time when even I was personally so discouraged by the kabuki theatre antics of bi-partisan politics that I no longer found it worthwhile to cast my vote - being utterly convinced that it didn't really count anyway. After all, who knows who counts those votes once they leave our hands and are shipped off to God knows where from God knows how many different voting locations across the country? And who knows to whom the vote counters owe their allegiances if vote counting does actually take place? But after learning through my experiences the true importance of *the audacity of hope*, I realized that the mere fact that I am not 100 percent certain that voting is a sham, designed to provide the illusion of freedom in a grandiose aristocratic experiment known as America, implies that it is my essential obligation and civic duty to vote to the best of my

See Obama, page 3

Legalize It!

By Jennifer Chou, Editor-in-chief



Television advertisements cautioning the public on the dangers of marijuana use have at one time or another implied that smoking marijuana can imminently lead to rape and death, among other frightening consequences. Despite lack of evidence directly supporting these claims, such blatantly misleading information continues to be tolerated and perpetuated.

The federal government's war on drugs continues to prove its futility, as a recent World Health Organization (WHO) study found that Americans reported the highest level of illicit drug use. Although futility is not a justification for legislative decisions, a close look at the merits of marijuana prohibition paints a picture of an unstoppable bureaucratic machine that feeds on its own lack of logic, at the expense of the American public.

From a public safety standpoint, WHO and Surgeon General studies have shown that although there are side effects to marijuana use, most of these consequences are the result of long-term, habitual use, rather than occasional use. Other temporary side effects are relatively harmless; Marijuana can cause short-term memory loss (as does alcohol) and decreased sperm count (as does consuming tofu, apparently).

Although the WHO and Surgeon General also warn of the dangers of marijuana use by children, no groups are currently advocating that marijuana should be available to children, making this a moot point.

Proponents of prohibition also cite to the foggy claim of "Amotivational syndrome." However, under this theory, video games and television should be illegal as well.

See Marijuana, page 5

WHAT'S INSIDE

EDITOR'S COMMENT.....	2
MOOT COURT ADVICE.....	2
PALIN POWER.....	3
SBA PRESIDENT'S MESSAGE.....	3
ADVICE TO 1Ls.....	4
PROSECUTION OF WAR CRIMINALS....	4
I MISS THE OLYMPICS.....	5
IF WE WEREN'T LAW STUDENTS.....	6
USD'S NEW LAW JOURNAL.....	8



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Our mission is to provide news, information, analysis and commentary to the students, faculty and staff of the University of San Diego, the University of San Diego School of Law, and the general legal community of San Diego. We believe that journalistic excellence is the soundest foundation for success. We pledge to seek and report the truth with honesty, accuracy, and fairness. These principles are cautiously guarded by each member of the Motion staff.

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Motions welcomes all letters, guest columns, complaints and commentaries. Budget permitting, we do compensate contributing writers with a modest honorarium if their piece is selected for publication. We reserve the right to edit for content, length, style and the requirements of good taste.

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EDITOR'S COMMENT

Welcome back to school everyone! This time of the year is undoubtedly a dynamic one for everyone at the law school. 1Ls are just getting adjusted, 2Ls can't believe they survived their first year, and 3Ls can't believe they are almost done.

Our first issue of the year is an exciting one with a variety of topics. A few of these topics are certainly areas of debate, and *Motions* welcomes feedback from readers. We exist to serve the student body, and I encourage those who have any opinion at all about our articles to write rebuttals, responses, or letters to the editor.

Expression of views in *Motions* may be less insignificant than some of you think. For example, I was recently alerted to an extraordinary issue of *Motions* published around November of 2005. One particular article was a bitter and scathing criticism of our career services, with detailed accounts of personnel incompetence. The article probably went too far, and bordered on libel. However, it was at the end of that school year that career services indeed underwent a massive and complete change. Of course, the administration probably did not act solely because one law student wrote an article in *Motions*. But it should be noted that at least two of the writer's suggestions – that a dean of career services be appointed, and that the staff be replaced – became reality.

Motions wants to hear from you – but until then, I hope you enjoy the first issue of the year.

Jenn Chou
Editor-in-chief



Five Things You Shouldn't Say in Moot Court

By Peter Stockburger, Staff Writer

As many of you embark on your first intramural moot court competition next month, I thought it would be beneficial to share some general insights. First, I want to assure you that these suggestions are in no way reflective of the Moot Court Board's position. These are the sole views of a person who is a two-time runner-up and zero-time winner of USD intramural competitions. In other words, this is the second best advice you'll ever get, so eat it up! So, here are the top 5 things I would not say during oral argument.

#1: "Oh, I'm sorry your honor, did I stu - stu - stutter?" As a general rule, patronizing sarcasm doesn't help. Also, if the judge does have a stutter, this line probably will not do you any favors. In fact, you might be assaulted.

#2: "That's what she said." I'm pretty sure this line is never going to work in your favor. I know it will be difficult, especially in situations where you might be confronted with a "Well, I'm not satisfied," or "You're an idiot." Please, try and refrain. And, if you feel tempted, just remember to

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slow down. That's what she said.

#3: "With all due respect." You mean, with no due respect. Judges hate this one. So, with all due respect, don't say it.

#4: "Money, money, money...stack 'dat cheese." Most likely, in your torts tournament, you will be dealing with some monetary damages. Please, unless you are a man from Florida who creatively calls himself Flo-Rida, you cannot use this line. Judges won't be impressed.

#5: "Are we about to make out right now?" I personally would say this, but I've heard it's not polite. I would check into it, however, before you discard it.

In all seriousness, I think the key to any successful moot court oral argument is preparation. Memorize your argument. Try and get through it without any materials in front of you. Know your cases inside and out. And, above all, have fun with it. Good luck!

ELECTION NEWS CONTINUED

From McCain, page 1

The fact is that despite all the rhetoric, both candidates have reached a consensus on foreign policy. Each candidate would increase troops in Afghanistan, use force to disarm Iran if necessary, and rebuild our alliances to pursue a more multilateral foreign policy. The question is who has experience and has exhibited the judgment to deal with the unexpected. When Russia invaded Georgia, Obama started by blaming both sides and then came around to joining McCain in denouncing Russia. Instead of consulting his 300 foreign policy advisors, maybe he should have just asked McCain first.

The Federal Judiciary

McCain has pledged to appoint judges who will apply the law as it is rather than what they think it should be. Obama is likely to appoint radically left-wing judicial activists eager to legislate their personal views from the bench. Nothing less than the future of our democracy is at stake.

Change

If you want real change in Washington, vote for McCain-Palin. Yes, you read that right. The fact is that while Barack Obama talks about change, John McCain and Sarah Palin have a record of actually fighting for it. Let's compare:

On the one hand you have a candidate who spent five years being tortured in a North Vietnamese prison camp after turning down an offer for early release because he refused to spout anti-American propaganda or violate the military's honor code. He went on to serve three terms in Congress, during which he courageously opposed a popular Republican President in sending American troops to Lebanon and was proved right when those troops were later brought home after a terrorist attack on their barracks. He then served 22 years in the Senate, where he built a record of working across party lines to stand up to big business, big labor, tobacco companies, oil companies, trial lawyers, lobbyists, defense contractors, other special interest groups, pork-seeking members of Congress, and even members of his own party when he thought they were wrong. Alaskans elected Sarah Palin governor after she fought her own party's corrupt chairman. She appointed a bipartisan cabinet, and is now the most popular governor in the country, with approval ratings that have been in the 90s. That is the kind of courage we need to shake up and reform Washington.

On the other hand, Barack Obama rose to power through the Chicago Democratic Party machine, voted "present" 130 times in the state legislature, and served about three years in the U.S. Senate without any significant accomplishments. He is now running for President on the rhetoric of "hope" and "change" with a running mate – Joe Biden -- who had to end his 1988 Presidential campaign after "misstating" facts related to his law school record and plagiarizing another politician's biography in a debate. He has since been accused of making racially-offensive remarks. Despite promising unity and bipartisanship, Obama and Biden have the 1st and 3rd most liberal voting records respectively. Both have authored numerous earmarks for their states and neither has a record of opposing their party's leadership. Obama and Biden won't change anything in Washington. They already fit right in.

From Obama, page 1

abilities, according to the information available to me, as skewed as it may be.

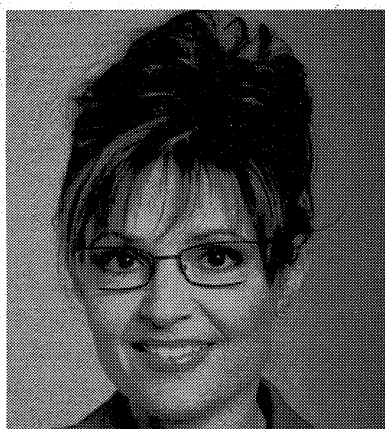
That is why despite Karl Rove's brilliant attempt to paint Barack Obama as the Antichrist himself,

I am voting this November, *as a Christian* (not the Karl Rove gun-toting judgmental unilateralist type, but rather the type who believes that agape love is the only true categorical moral imperative of God him or herself and the only true hope for saving our world) for Barack Hussein Obama.

It is my opinion that of the only two major candidates in this year's election, Obama has the highest probability of restoring some semblance of humanity, dignity, and compassion to the not-so- "white" – that is, quite blemished – White House. If for no other reason than to play the part of a Democrat, Obama will no doubt be a better advocate for civil rights, the underprivileged, the elderly, and minority groups here and abroad. Even if he is a mere product of the big business system from which both he and his opponent originated, he will surely make a smarter, wiser, and more compassionate leader of the United States. I hope you will join me in voting – even if not for the candidate of *choice*. (OK, that's a lie . . . only vote if you're going to vote for Obama.)

Palin Power

By Annie Macaleer, Staff Writer



Governor Sarah Palin and Senator Barack Obama, whether they like it or not, share the same electrifying quality: they are both political rock stars. Unfortunately for Obama, his crescendo to rock star status peaked

many moons ago, and the excitement has started to fade. Enter Sarah Palin from the great state of Alaska. Palin is intelligent, engaging, likable, and articulate – and America cannot seem to get enough of her.

Going back a few months, my first choice for the Republican presidential candidate was not Senator John McCain. While he is certainly the most qualified and probably the most deserving candidate, McCain is not conservative enough. More importantly, I just could not get excited about his campaign. Of course, when he became the presumptive nominee, I was proud to have him represent my Grand Old Party, but I was also a little bit nervous. Obama seemed to have that ability to electrify a crowd. Supporting Obama became the new cool thing to do, and I became even more worried that many would vote for him simply because it was the new political fad.

Obama had a clear road to the White House – until he chose his Vice President. He just made arguably the worst decision of his political career. While Senator Joe Biden does compliment Obama's general lack of experience dilemma, Biden does not reenergize that declining excitement. Obama is old news, and Palin is the new "it" candidate. On the flip side to the worst decision of Obama's political career, the decision to choose Palin as his Vice President was arguably the best decision of McCain's political career.

While the media has taken multiple unfair swings at this spectacular woman, the public does not seem to blink an eye. From a rock star-like craze over her hair, eyewear, and suits, Sarah merchandise has hit the streets running. People do not seem to mind that the media claims that Palin lacks foreign policy experience. A true leader does not need a lengthy resume. A true leader leads from the heart, not from years spent in elite foreign policy summits. Like President Truman, Palin comes from humble backgrounds and will lead with class, dignity, and

respect. Palin has the requisite political prowess to ultimately become President, and because of her, I am now excited about McCain's campaign. McCain just bought himself a nonstop, first class ticket to the White House. Palin is going to be *more* than a mere proverbial heartbeat away from the presidency – we are looking at the next President of the United States of America in 2016. Go Sarah.

Welcome Back USD

By Marshall Skaletsky, SBA President

Hello fellow SBA Ladies and Gentlemen! On behalf of the entire Student Bar Association (SBA), I would like to welcome back all the returning students and welcome all the new students to the University of San Diego School of Law! We offer our congratulations on your decision to pursue your legal education here at USD and we believe that your future success will be a credit to our institution.

I am personally honored and excited to serve you as the 2008-2009 SBA President and look forward to the upcoming year. The SBA Executive Board has been working hard all summer long in preparation for the upcoming year while preparing for the many things that should benefit us all. Since the beginning of school, we have already had many successful events. First, we were fortunate to provide the 1Ls with over 120 eager upper-classmen volunteers for orientation week and we thank all the volunteers for their commitment to making the 1L transition into law school as smooth as possible.

Further, we were happy to completely digitize the book exchange this year so that students could log in online, check out the updated book roster and purchase books through a much more efficient process. We hope that you all took advantage of the new system. Also, I am happy to say that we had over 150 mentor/mentee combinations this year, which was kicked off by a fun beach barbeque a few weeks ago, and will include other events in the future for those who are interested. Many other exciting things are forthcoming, including our SBA Padres Night, community service opportunities, a groundbreaking alumni-student interactive program, sponsored presidential debate viewings, fun bar reviews, new soda machine options in the law school, joint law school events with CWSL and TJSL, networking events, our upcoming Halloween party and much, much more!

We have so many new and exciting things to accomplish that the school year will surely fly by as we get to all of them! Be sure to visit our website at www.usdsba.org for further information about the SBA and feel free to contact me at usdlawpres@gmail.com with any comments or questions. Please do not hesitate to provide any suggestions that can benefit the student body and have confidence that you are in good hands with your SBA.

Congratulations on getting through the first month of school and always remember that no matter what stresses arise in law school, we are still fortunate to be living in "America's Finest City" and amongst America's finest law students!





A Word From the Wise: *Advice to 1Ls*

By Austin Evans, Staff Writer

By the time we start law school, too many of us are jaded to the joys and wonders that starting a new school brings. While we might not have our mommies taking pictures of us on our first day, no matter how cool or cute we look in a Catholic school uniform or with a Ninja Turtles lunchbox in tote, beginning what is (hopefully) the last schooling of your life can be exciting and slightly apprehensive.

Alas, we tried and true 2L's and 3L's are here to help guide you through the mystics of law school. I'm here to give you some advice I'm betting you didn't hear at orientation. Controversial? Maybe. Helpful? Definitely. Here is what I suggest you live by over the next year.

Get used to the feeling you'll never be caught up – the game is keeping your head above the water. By now, you're already overwhelmed by the pace and wealth of material you're expected to know. This is normal, and the legal world is so fast-paced it's nearly impossible to focus 10 percent on everything. Instead, focus on the rules you're learning and how you can apply them; this is what's on your exam. Rule of thumb: just understand your assigned reading and pay attention in class; that's all you need to do to do well.

Sleep – you CAN get 8 hours in a night. Too many of my friends know the mechanics of pulling an all-nighter; don't become one of these people. You need sleep not only to rest yourself from the work you're doing, but also for physiological and mental reasons. Unless you want to be in the health center a few times a month, budget your time for the week and include 8 hours of sleep a night. Rule of thumb: budget your time to treat law school like a 40-hour a week job; you'll cover your bases and have enough free time to have a life.

Don't date within the law school – even dogs don't sleep where they pee. Sure she's cute. Maybe he's a bit of a stud. Maybe you both had a little too much to drink, but keep it in your pants, brother. Law school is unfortunately too small to allow for the promiscuous fun you likely enjoyed in undergrad. Everyone will know what happened... *everyone*. Also, you might start the semester off great and decide to sit next to each other, but what about when it goes sour? Now you have your latest mistake next to you 3 times a week, and that seating chart is set in stone! Rule of thumb: look at Cal Western's student body.

Law Skills is pass/fail – allocate your time appropriately. We all played the High Pass game last year. Keep up those scores and maybe, just maybe, you'll get a super cool line on your résumé and some extra points for Law Review. However, just like those contests on the radio, many will play and few will win. Make sure you're focusing on your substantive classes, the ones with those things known as grades. Rule of thumb: one hour spent on writing assignments is worth four hours spent studying for substantive classes; apportion your time appropriately.

Keep your damn hand down – also titled, "How to Lose Your Friends in 30 Seconds," starring you. Class discussion is not to show off how smart

Spending the Summer with War Criminals

By Peter Stockburger, Staff Writer

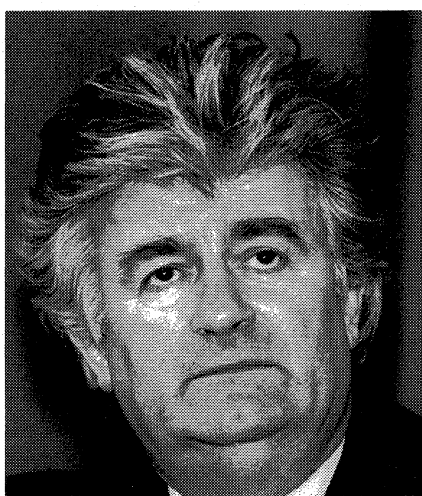
As a student of international law and international affairs, it's sometimes difficult to find the right kind of job summer job. In fact, it's pretty much impossible. This summer, however, I followed my passion and had the incredible opportunity to intern with the Office of the Prosecutor (OPT) in the United Nations International Tribunal for the Former Yugoslavia (ICTY).

The ICTY, located in The Hague, Netherlands, is a Security Council-mandated war crimes tribunal created in 1993. It was designed to try those most responsible for perpetrating war crimes, crimes against humanity and genocide during the Bosnian War of the 1990's. As an intern in the OPT, I was assigned to the trial team of Anti Gotovina, a former Croatian general charged with indiscriminately shelling, and forcibly deporting, an ethnic Serb population. This shelling operation, dubbed "Operation Storm," was the largest artillery bombardment in Europe since World War II.

My work at the tribunal mostly consisted of witness analysis and artillery document analysis. For example, I primarily analyzed the testimony of a four-star United Nations General who was running the peacekeeping mission on the ground in Croatia at the time of Operation Storm. While this work was engaging and challenging, the most powerful experience I had was hearing the heart-wrenching testimony of the victims. I am still haunted by one testimony in particular.

The witness described his experience in detail. According to the witness, Serb forces came to his village one day and rounded everyone up. Once all two-three hundred individuals were gathered, they were brought to a local gymnasium where they were beaten and tortured. Once the soldiers were finished, they asked for ten volunteers. After ten scared individuals stood up, they were brought to the other side of the gym and gunned down in front of the others. The soldiers then returned to the petrified group, including women and children, and asked for ten more volunteers. Eventually, the witness was chosen as a group of ten. As his group was being led to the other side of the gym, he recounted his concern for his wife and children who were still huddled in the mass. As he arrived to his fatal destination, his group was sprayed with bullets. As his group fell to the floor, the witness realized that he was not yet dead. The bullets had only hit him in the back, and somehow left him breathing. Unfortunately, the Serb soldiers were aware of this and decided to finish him off. Miraculously, only one bullet hit him.

Alive and incredibly rational, the witness described how he made the decision to escape rather than risk being burned alive in a mass grave. As soon as the soldiers were done with their killing and were outside smoking cigarettes, the witness got up and ran. He told the tribunal how he saw a sea of bodies, some still crying for their loved ones. As he pushed on through the back door, one of the soldiers stabbed him in the shoulder. Unbelievably, the witness fought off the soldier and made it to safety. Eventually, the witness concluded his statement and the tribunal sat silent. It was an experience I won't soon forget.



*Radovan Karadzic,
the world's most wanted war criminal*

Let me assure you, not all times at the tribunal were so serious. After all, I was in Europe. I made tons of great friends, got addicted to pancakes, and savored the wonders of Northern European brew.

On top of that, I was right in the middle of the action when the world's most wanted war criminal, Radovan Karadzic, was captured and transferred to the Hague. All in all, not a bad time indeed. In fact, when I'm bored in class, I still daydream about the random courtyards and delicious waffles of Antwerp, the fry stands and parks in The Hague, and the first time I had mint tea at Schevinhegen. Above all, I miss riding my bike aimlessly around the city center after work.

This summer was an amazing experience. It both confirmed and properly questioned by belief in public international law. With any luck, and a little bit of hard work, I will be back in the Hague next year working on another major human rights case. Until then, I guess sitting through Tax will do.



The Hague, Netherlands

(you think) you are. My favorite moment in law school was second semester right after grades came out...because the self-appointed gunners in class got slapped by their grades and realized how ineffective their banter with the professors were. Rule of thumb: raise your hand when you have a question you think other people might have; otherwise, see her during office hours.

While I'm not saying following these rules will lead you to great success this year, they just might keep you sane and healthy. You wouldn't be here if the school didn't think you could succeed, so just stay smart, focused and try to make the best of what's around you. Just a thought, though.

From Marijuana, page 1

A 2006 UCLA study revealed that smoking marijuana, even habitually and heavily, did not cause lung cancer. The study was the largest of its kind and tracked the lifetime use of marijuana of participants. The heaviest marijuana smokers in the study had smoked more than 22,000 times, and showed no increased incidence of the cancers at issue.

The Schaffer Commission Report was a major study conducted by the Federal government, and commissioned by the President in 1972. The Commission recorded that the drug was not very dangerous, and that prohibition was not effective or reasonable, says Matt Oglander, Founder of the Marijuana Legalization Organization (MLO). Since then, the federal levels have not looked at those facts. There is propaganda that is totally based on scare tactics rather than fact about the effects of Marijuana.

There is a complete lack of evidence as to how marijuana is ever immediately dangerous or fatal. Further, it creates criminals out of otherwise law-abiding Americans who choose to smoke marijuana occasionally in the free country in which they live.

"From an economic standpoint, legalization of marijuana would allow for taxation. Not only would this generate revenues, it would eradicate needless expenditures. This would eliminate a lot of bureaucracies at the local, state, and law enforcement level," says Michael Roth, Vice President of Content Development at Legal Reefer.

With economic and liberty interests at stake, it is difficult to see who, exactly, the federal government is protecting in its crusade against the drug.

"Police departments and the DEA benefit from these policies, because it provides jobs. If you look at local police departments and major federal bureaucracies, a large percentage of their jobs have to do with the enforcement of Marijuana laws," says Roth.

Indeed, it seems there is no moral or safety justification for these policies; instead, the federal government just seeks to compensate itself for enforcing unnecessary laws.

"When we testify [about Marijuana] in Congress, it's not doctors, nurses, teachers, religious figures or parents groups opposing us, says Allen St. Pierre, Executive Director of The National Organization for the Reform of Marijuana Laws (NORML). "It's law enforcement in all forms, including DEA agents, sheriffs, police officers, and they do it under the guise of the code of law.

Law enforcement generally purports merely to enforce the law (though it may be unjust), not make the law. However, this simply is not the case. "They spend a lot of time and money lobbying for the status quo. They are not supposed to do that in uniform, but they are able to do so in the form of the Fraternal Order of Police and The Chief of Police Association," says St. Pierre.

A transcript of debates on the matter in the 108th Congress in the first session reveals that the Fraternal Order of Police lacks evidentiary support for prohibition. Their representative declares (without citing to any studies) that marijuana should not be used for medicinal purposes because it causes pain. Never mind that no study by any legitimate institute (or perhaps any institute) has ever reported general pain as a side effect of marijuana usage.

He goes on to cite the number of drug overdose deaths in the United States, which, while shocking, is irrelevant, since no overdose death has ever been attributed to marijuana use.

The representative suggests that the danger of marijuana is that it is a gateway drug. However, an examination of how many people who try marijuana and move on to harder drugs also used alcohol first would probably suggest that alcohol is the true gateway drug.

Regardless, this kind of reasoning that marijuana should be illegal because it could lead to other dangers would also justify the prohibition of automobiles, skydiving, bungee jumping, and other risky activities that could potentially cause harm to the self or others. Certainly, even outside the realm of DUIs, many more people are killed directly as the result of automobile accidents, than because of marijuana usage.

Aside from wasting taxpayer money by creating unnecessary employment for itself, the government has also found another method to create colossal waste per its marijuana policy: it has decided to enlist the help of high-tech corporations in its tautological war.

The federal government is willing to pay millions of taxpayer money to stop marijuana use, and huge multi-national corporations that are defense or technology driven compete to get government contracts for making the technology to facilitate those aims.

For instance, a Ford Lincoln Infrared Radar (FLIR) is a form of technology that can be used in a helicopter; it can also be used to discern whether people are potentially growing Marijuana because of the wavelengths emitted from the light. The company that makes the FLIR is a subsidiary of General Electric.

"General Electric, Honeywell, Siemens, and other high-tech corporations all try to find ways to get government contract money to produce technology and equipment to thwart marijuana use and growth," says St. Pierre.

Recreational use of marijuana aside, there is still the issue of marijuana for medicinal purposes. California is one of a few states that authorizes the use of Marijuana for medical purposes. However, the Supreme Court held in Gonzales v. Raich that the Controlled Substances Act was not a Congressional violation of the Commerce Clause.

Although severe problems exist of people abusing extremely addictive prescription drugs such as Oxycontin, the federal government's actions indicate its primary concern is with keeping those in its own ranks employed and plentiful.

The government's marijuana policy also flies in the face of liberty. Oglander notes that America exists the way it does partially because of a strong belief in individual liberty and the right to control one's own decisions. "Generally we allow the government to interfere when there is a risk of harm to others. If the only risk of harm is to oneself, we believe that one should make their own choices. We do not ban fatty foods or outlaw bacon; we let people make their own decisions," says Oglander. "We should educate people about marijuana, but let them make their own decisions about those risks," he adds.

Finally, even if the use of Marijuana as a recreational or medicinal drug is in fact condemnable, there is still no justification for the prohibition of hemp, a strain of Cannabis Sativa that contains no active drug ingredient. Hemp is fast-growing, and can be used to develop rope, paper, clothing, and oils with nutritional value. Because it is fast-growing, and tends to damage soil less, it is a viable and environmentally-friendly alternative to crops such as trees and cotton.

"Hemp is an example of how blind our policy has been to reason. It has been banned only because

See Marijuana, page 8

I Miss the Olympics Already

By Austin Evans, Staff Writer

It's an event that happens every four years. I watch swimming on TV and witness record after world record fall. Athletics features people running from here to there in a flash, and those gymnasts do things that no normally-jointed person should. I truly believe the Olympics are one of the most amazing times we have as a global society, and I am sad to see them go for another 4 years.

The games inspire all of us to do the best we can; who doesn't want to be an Olympic athlete after watching the games?

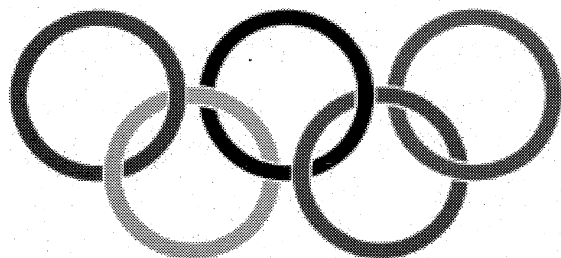
I know each time I watch Phelps destroy yet another record I want to hop in the pool and train for 8 years solid so I too can swim on the world's stage. The fact that I nearly pass out after 300 yards is not only a testament to how out of shape I am, but more so to the dedication and drive it takes to get to that level. These people aren't just practicing a hobby, it takes hours upon hours of training, complete with lifestyles and 12,000-calorie diets that we mere mortals cannot comprehend.

It's also disappointing that these athletes don't get the recognition they deserve. While some people might argue football or baseball players are the greatest athletes in the world, their fame is more a function of out-of-shape, former high school jocks obsessing over their former sports than any athlete's actual ability. While I do not doubt that dodging giants for 100 yards with a football is something that requires talent, try running that same 100 yards in less than 9 seconds. Or try dropping 30 feet into a pool and not make a splash. While a Wheaties box is something, it's these athletes that deserve \$10 million a year, not some overweight relief pitcher. The games also bring us together as a global community in ways no other unifier can.

During the course of the games, athletes from over 200 different nations competed, bringing together a diversity of people only rivaled by the United Nations. Nations can showcase their stars and idols, and we as Americans finally get a lesson in culture and geography that can be the start of friendly relations all around. Just a shining example of this is Rohullah Nikpai, the first Afghan to win a medal at the Olympics. The games are just an example of what a country can do to persevere over hard times.

I firmly believe it's also high time we bring the games back to the United States. If anything, I want to go to the games and see the torch with my own eyes sometime during my life, and a trip to Chicago is pretty cheap. I encourage all of you to do what you can, and get involved in this movement. The website for the Chicago games is <http://www.chicago2016.org>, and check out how you can support the bid.

Until 2012, I guess it's just me and the pool for now. And maybe a road trip to Vancouver in a few years, too.



If We Weren’t Law Students...

By Britton Lacy, Staff Writer

I had already had my daily dose of crazy on the trolley during my morning commute into work—I entered the trolley car to an elderly man’s very audible and heartfelt rendition of “On Top of Old Smokey”—so during the ride home, I was all too content to stand and read my book in as much uninterrupted peace as possible. The best laid plans...

During the switch at Old Town, a man in a wheelchair, probably in his fifties or sixties, boarded my trolley car. I could tell he was angling to see the cover of the book I was reading, so rather than intentionally ignore him, I allowed him to get a better look. (I was reading Are You Somebody? The Accidental Memoir of a Dublin Woman, by Nuala O’Faolain.) He informed me that at first he thought it was a self-help book of sorts, but then he realized that it was maybe “like an Angela’s Ashes.” I pointed out that Frank McCourt, the author of Angela’s Ashes, had actually praised this book and a tidbit of his review was on the cover. Clearly interested in conversation, he informed me that he went to the high school where Frank McCourt now teaches. The conversation then turned to Stuyvesant, to inter-borough commuting in New York City, and what led the man in the wheelchair from the east coast out to California.

Ultimately, in the short ride from Old Town to Morena/Linda Vista, I learned about this man’s high school experience, his 1981 chess victory over a future Nobel Prize winner in Chemistry and his failed marriage to a French-Moroccan woman. My stop interrupted our conversation, and when I told him I had to get off the trolley, he said, “but I have so many more stories!” I replied, “I don’t doubt it. Hopefully I’ll see you next time.” The thing is: I really meant it. I would love to run into that jolly little man again.

Coincidentally, this unanticipated trolley run-in occurred just a couple days after I had begun my “research” for this article – consisting of getting into rather spontaneous and random conversations. Perhaps less coincidental is that fact that I found both the trolley experience and the process of gathering material for this article to be truly enlightening and entertaining.

If pressed to expound on the theme of this article, I suppose I would offer something very trite: “everyone has a story to tell” or “there’s always more than meets the eye.” (Side note: the latter truism is applicable to Transformers, too.) But honestly, this is just an excuse to talk about something other than law school. And what better topic than dream jobs?

All following mini-interviews began with essentially the same question: “If you weren’t going to be a lawyer and you could be or do anything, what would you be or do?” There were no restrictions on how you could answer and it could be something realistic or fantastic, altruistic or hedonistic. Accordingly, answers ran the gamut and everything was fair game to put in print. Well, almost anything.

The results are below. They are, if nothing else, diverse. Take from them whatever lessons you will:

Jacob Anderson (3L): “A hawk. Or a killer whale.”
Me: “An orca.”
Jacob: “Killer whale sounds better. Or I’d be a stunt double.”

Vic Merjanian (2L): “A country superstar.”
Me: “Like who? Brad Paisley? Toby Keith?”
Vic: “Brad Paisley. Singing about checking girls for ticks is hot.”

Leah Romond (3L): “A dirty hippie.”
Me: “Got it.”
Leah: “No.”
Me: “Okay, what then?”
Leah: “I’d be on *Circus of the Stars*. You know that show that was on back in the day?”
Me: “No.”
Leah: “Well I always wanted to be on it.”

Kristy Hewitt (2L) (after considerable deliberation): “A bird on Bird Rock.”

Ben Shiftan (3L): “Audrina Patridge’s personal trainer.”
Me: “Audrina from *The Hills*? Really?”
Ben (with conviction): “Auddie Outrageous.”

From this point on, whenever I saw friends, acquaintances, or strangers (I tried to be an equal opportunity interviewer), I asked them the same question and wrote down their answer. Here are their responses, in no particular order. Unless, of course, you consider chronological order to be a particular order. [Note: each interview consisted of several back and forth exchanges, but for brevity’s sake, I didn’t include the entire conversation.]

Stephen Lessard (3L) (without hesitation): “A gun-wielding porn star.”
Me: “Of course.”
Lessard: “A gun-runner or smuggler. Or underwater basket-weaver.”

Jodi McShan (3L): “Training reining horses.”
Kollin Zimmerman (2L): “Pro soccer player in Sweden.”
Me: “Why Sweden?”
Kollin: “From what I’ve heard, Sweden has many beautiful blonde-haired, blue-eyed women. And American accents there are like Australian accents here.”

Melissa Schmidt (3L): “Novelist.”
Me: “What kind of novels?”
Melissa: “Light-hearted, geared towards women. Like Emily Giffen’s books. Or I’d buy and then sell real estate.”

Julia Rojas (3L): “I can’t help but look at street performers and envy them [for their lack of an intense workload, amongst other things].”
Me: “So you’d be a busker?”
Julia: “Yeah, a street performer hippie.” (Julia explained that her current level of musical talent is akin to Phoebe on “Friends,” but she’s confident that she’d ultimately get to Britney Spears status.)

Heather McCauley (3L): “Barefoot and pregnant.”
Me: “Niiiiiice. If you dream it, you can achieve it.”

Professor Jean Ramirez (without hesitation): “A forest ranger. Or a professional mountain climber.”
Me: “So, you’d be sponsored?”
Professor Ramirez (with confident nonchalance): “Yeah. I’d be a pro.”

Jess McElfresh (3L): “A Spanish literature and cinema college professor. It was my major in college and I loved it.”

Audrey Hills (3L): “I’d be in a tropical climate. With no shoes. Surfing. And not really talking to people.”
Me: “Noted. No further questions.”

Rob Dieringer (2L): “I’d think I’d go to sociology school. Or anthropology. I’d want to travel.”
Me: “So you want to be kind of like Indiana Jones?”
Rob: “Yeah. Or like Ice-T in Law & Order.”
Me: “Would you have a rat tail?”
Rob: “Yes.”

Anand Upadyhe (3L) (without hesitation): “A stand-up comedian.”
Me: “Where?”

Laura Vogltanz (2L): “I’d be a high school special education teacher.”
Christine Diaz (3L): “Set designer.”
Me: “For movies? Broadway shows?”
Christine: “Movies.”

Kate Santon (3L): “Concert pianist.”

Katy Schultz (2L): “A food critic for *Travel & Leisure*.”

Jordon Harlan (2L): “Hugh Hefner.”
Me: “His apprentice?”
Jordon: “That sounds lame. I’d be his *protégé*.”

Rachel Dorfman (3L): “Pro surfer.”
Me: “Where?”
Rachel: “Indo. Indonesia.”
Me: “I got it. I know the lingo.”
Rachel: “Or I’d be a pro-ho. Kelly Slater’s trophy wife.”

Joe Gorman (3L): “A carpenter.”
Me: “Making what in particular? Houses?”
Joe: “Furniture. I’d be a furniture maker.”

Alex Lowder (3L): “High school basketball coach.”
Me: “Where? Any high school in particular?”
Alex: “My high school.”
Me: “What’s your mascot?”
Alex: “Lancers.”
Me (confused): [blank stare]
Alex: “Like a guy with a lance. The lancers.”

Jennifer Simmons (2L): “11th grade English teacher.”
Me: “Why 11th grade?”
Jennifer: “We did a lot of Shakespeare then. I love Shakespeare.”

See Law Students, page 7

Anand (*with some thought, but not much*): “Detroit.”
Me: “In the armpit of America?”
Anand: “Detroit.”

Dan Sibor (3L): “President or owner of a European soccer team. In a real good party city. Barcelona would be cool.”

Julia Davis (2L): “I’d start a non-profit that takes foster kids on outdoor trips.”

Arien Koorn (2L): “I’d walk the world. And save lives along the way. I’d be like a superhero. And a problem-solver.”
Me: “Quite the multi-tasker. What do you think would be your favorite destination? Or where would you really like to go?”
Arien: “I’d love to see Istanbul.”

Tara Aguilar (3L): “Pastry chef or wedding planner.” (Tara was accepted at Cordon Bleu around the same time she got into law school.)
Me: “What made you decide to go to law school over culinary school?”
Tara: “I figured I’d do the harder thing first.”

Tatyana Livshits (3L): “Campaign manager/public relations.”

Dan Zoppo (3L): “Lottery winner.”
Me: “What would you do with your winnings?”
Dan: “I’d go on a European vacation with my friends. I’d also get condos in Rome, London, and New York.”
Dan: “Or I’d follow my dad’s advice and marry for money.” (“Dan, you’re lazy. You should plan to marry for money.”)

Todd Headden (3L): “Can I say Dictator of the World?”
Me: “Sure.”
Todd: “Or I’d be a proprietor/small business owner/manufacture of carbon credits. And a tree-hugger.”

Marshall Skaletsky (3L): “A sports agent. I’d also own/run an import/export business in Africa.”

Marc Johnson (3L): “A lottery winner. And a gambler.”

KellyAnne Kennedy (3L): “When I was little I wanted to be a magician.”
Me: “Magician. Got it.”
KellyAnne: “That was when I was about seven, though. I’d like to be like Fergie. But without the meth problem. Like a cool Gwen Stefani.” (note: KellyAnne doesn’t know about Fergie’s bowel issues when in the San Diego region)
Me: “A Fergalicious Gwen Stefani. Got it.”

Nicole Cusack (3L) (*without hesitation*): “Flight instructor. Or an interior decorator. Of kitchens.”

Matt Ichinose (3L): “Med school.”
Me: “What kind of doctor?”
Matt: “A podiatrist. Wait, what kind of doctor works with kids?”
Me: “That’s pediatrics. Podiatry involves feet.”
Matt: “A pediatrician. Or Fiero in *Wicked*.”

Forrest Merithew (3L): “Pro soccer player in Europe.”
Me: “What team?”
Forrest: “Manchester United, beating the crap out of Chelsea...and pissing off Matt Ichinose.”

Frankie DiGiacco (3L): “A guitarist in a band playing in the mean, mean bars in L.A.”
Me: “What kind of music?”
Frankie: “Punk/alternative.”
Me: “What else?”
Frankie: “Or I’d be a lawyer.”
Me: “Way to think outside the box.”

Cassandra Gomez (3L) (*immediately*): “National Geographic photojournalist.”

Jennifer Chou (3L) (*without hesitation*): “Singer/songwriter/fashion designer/novelist.”
Me: “So like a J-Lo who can write?”
Jenn: “Yes.”
Me: “J-Chou.”

Austin Evans (2L) (*without hesitation*): “Porn.”
Me: “Lovely.”
Austin (*trying, in vain, to take it back*): “We’re off the record, right?”
Me: “Too late. You said it. I wrote it down.”
Austin: “A weatherman.”
Me: “A pornographic weather man. Got it.”
[Note: Jenny Simmons can do an uncanny impression of a pornographic weather man.]

Carolyn Sam (3L): “I’d coach sports for at-risk kids.”
(A lively conversation about the wonders of competitive sports and the problem of obesity in American ensued.)

Andrea Robinson (3L): “Academic advisor for a University.”

Professor Miranda McGowan: “I would be a public radio talk show host. Or a professional cyclist, but probably not, because *having* to ride would probably make it less fun.”

Chris Magill (3L): “An airplane.”
Me: “You want to *be* an airplane or *own* an airplane? Or *fly* an airplane?”
Chris: “Be an airplane. Although, probably, in all likelihood, I’d be the guy on the street preaching about the apocalypse. And I’d be painted in silver.”
Me: “Not gold?”
Chris: “Silver is a better alien-reflector color than gold.”

As for me, I’d like to do something involving travel, inspiring others, and making the world a better place. That’s right: I’d be a back-up dancer for Justin Timberlake. Thank you to everyone who was kind enough to indulge my random questioning. Whether it be porn or photojournalism, I wish you nothing but the best of luck in integrating your ideals into reality. Dream big and go for goal.

USD's Climate and Energy Law Journal Makes its Debut

By Andrew Adams, Staff Writer

As early as this spring, USD Law will add another journal to its publications: the *University of San Diego Journal of Climate and Energy Law (JCEL)*. The first issue, tentatively scheduled to debut in the fall of 2009, will follow a symposium where the authors will present their work. The result of nearly a year of work by students and faculty, this journal will include student, practitioner and professorial work on legal issues spanning municipal regulations to international agreements concerning global warming and energy use.

Interestingly, *JCEL* is set to become the very first law journal in the nation to focus on climate law. While there are numerous energy and environmental law journals currently in publication, and plenty of journal articles being published on climate change, no current law journal has the word "climate" in its title, evidencing the field's relative newness. USD was able to jump into this leadership position because of existing resources on campus like the Energy Policy Initiatives Center (EPIC) and a strong environmental and energy curriculum.

The goal of *JCEL*, according to Editor in Chief Thomas Del Monte, is to "create a journal that will explain and aid in the creation of climate and resulting energy laws" here in the United States. Without taking a position on the partisan politics surrounding climate change laws, *JCEL* will provide commentary on the field and identify and develop certain methods undertaken in the process of

enforcing these new laws. As Del Monte said, "this journal will provide a testing ground and forum for new ideas and interpretations of climate laws as they develop."

A major part of the plan to accomplish these goals is the annual symposium that will precede the journal's publishing. This symposium will bring the leading players in climate law to the USD campus for a day-long conference. Scott Anders and EPIC are taking the lead on organizing the symposium, with Prof. Lesley McAllister and other faculty helping to recruit leading academics -- many of whom have already committed to presenting and publishing their work. Writers who are publishing an article in the first edition will be presenting their work for the first time at the symposium.

The climate law field is rich with unmapped areas of law, making for what promises to be a strong issue area for years to come. As many states are considering laws modeled after California's recent bills that focused on carbon emissions (Assembly Bill 32 and Senate Bill 1493), more challenges to climate regulations will likely arise. Federal action to limit greenhouse gas emission is also expected to come soon, as a recent bill recently fell just a few votes short of passing in the U.S. Senate.

It is hard to find subject matter comparable to carbon emission-regulation because of the increasing certainty and reach of such legislation. And, as in any area of new law, there is great confusion. The major carbon-emitting industries, for the most part, want to know exactly what future laws are likely to require so they can conform. Governments want to know exactly how their regulations can fit into the international patchwork of laws and regulations without being too strict or too weak. This confusion lessens as the field of climate law develops, but much work in defining the laws still exists. *JCEL* and its preceding symposium are likely to put USD School of Law right in the middle of the discussion.

From Marijuana, page 5

the government is afraid it will be confused with marijuana," says Oglander. According to MLO, the DEA insists that their main opposition with hemp is that it is not a viable crop.

"But that is not within the area of expertise of the DEA. They do not make recommendations for other crops," Oglander counters. "In other countries, there is viable hemp growth, such as contained in bird seed, which we import. It is a crop that could be helping our economy, but isn't because the government forbids it."

There seems to be little more than a glimmer of hope in this moral and legal abomination against freedom. Indeed, the courts have not been receptive to change. "Even though we believe some of these court cases have been wrongly decided, the fact of the matter is that the legalization of marijuana is going to have to be accomplished by legislation, not litigation," Oglander explains.

Oglander urges law students not to be discouraged. "There are many opportunities to get involved with drafting legislation, when a state decides to legalize marijuana for medicinal purposes, or when municipal governments pass legislation making marijuana enforcement a low priority."

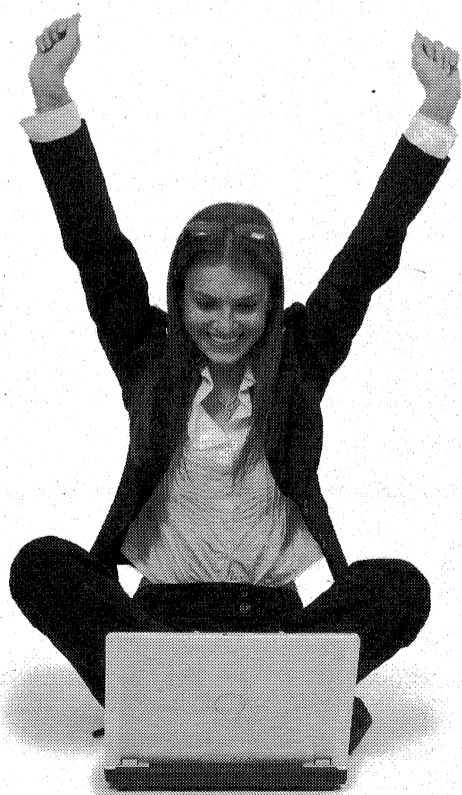
WHO study: <http://www.druglibrary.org/schaffer/hemp/general/who-probable.htm>

UCLA study: http://www.washingtonpost.com/wp-dyn/content/article/2006/05/25/AR2006052501729_pf.html

Debates in the 108th Congress, first session: <http://www.house.gov/mica/fs072203.htm>

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