

INTER ALIA

wednesday, february 16, 2005

Last semester, *inter alia* was chock full of heated debate between gay rights activists and Mormons, all about who had the right to marry whom. And it seemed like it all died down with the activists and the brethren agreeing to disagree, "kissing and making up" as it were, and emphasizing their common ground. Nobody was advocating changing church rules, they all said; it was a debate about civil marriage. And nobody was talking about animals, as that whole Santorum-Inhofe slippery slope was clearly off limits as being ridiculous on its face. Well, I hate to dig up a dead horse so I can give it one last beating, but neither side speaks for me. From my point of view, it's all about animals and all about the church.

Now before you start condemning me, let me explain that it is most definitely NOT about sex. (Get your mind out of the Santorum, you

Inhofe!) No, as anyone who has been married for more than a few years can attest, the connection between sex and marriage can be tenuous at best, and often damn close to non-existent. When it comes to carnal matters, I'm as hetero as the next guy. It's just that women have drifted in and out of my life like oil tankers in Prince William Sound, often with similarly disastrous results. Lord knows I love 'em, but women can be so fickle, so judgmental, so capricious, so cruel. When it comes to choosing a partner to be sealed to for time and all eternity, a faithful and loyal companion with an unlimited capacity for unconditional love on a spiritual level, I'm thinkin' Chesapeake!

Yes, a Chesapeake Retriever, and I have specific one in mind. Her name is "Rudi," a pink-nosed beauty with short yellow fur and a kink in her tail. She waits for me down in Boise's North End, my law-school long-distance romance. Last summer, her family

and I spent a few days camping at Bumping Lake, west of Yakima. It was the most joyous of times, spending hours hurling her tennis ball into the lake, and she would fetch it every time. Without fail, she would drop that fuzzy green orb onto the sand by my feet, and stare up at me with lustrous brown eyes. Oh, how I dream of endless summers on planet Kolob, hurling a multitude of tennis balls into Kolob's alpine lakes and having them fetched by my darling Rudi.

I had my epiphany on the way to the lake, when I saw the newspaper headlines in Yakima, that the Washington courts had

taken another step towards allowing gay marriage. I thought, perhaps there's hope for Rudi and me, with Santorum's slippery slope and all. I discussed it with Rudi's owner, Wade, who is a University of Washington alumnus. He often

refers to Rudi as "that dog is such a damn Cougar!" I never knew quite what he meant by that, or why he sometimes refers to me as "Coug-Boy." Anyway, at the dock at Bumping Lake, I asked Wade for Rudi's paw in marriage, such that when the courts of the State of Washington allow it, Rudi and I will be wed at Martin Stadium in Pullman, during halftime of the next Apple Cup game. He assented.

But that's only half the battle. Convincing the justices in Olympia will be easy compared to convincing church leaders down in Salt Lake. Rudi will be long dead before that ever happens. Perhaps I should break up with Rudi, and look for a human girl with many of her admirable qualities. Personal ad? "SWM seeks loyal SWF, short blonde hair, moist nose, strong swimmer, likes to fetch."

-- A. Wunell

"As anyone who has been married for more than a few years can attest, the connection between sex and marriage can be tenuous at best."

Flavor Chemists: Where Are US Subsidies for Ethyl Vanillin?

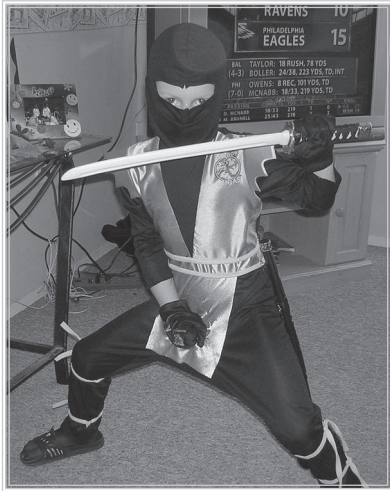
By Sally Vacuum

TETERBORO, NJ—Near the wreckage of this month's plane crash, German flavor and fragrance company Symrise GmbH & Co. KG's American headquarters is busy churning out food additives for your breakfast cereal, ice cream, and Valentine's Day chocolates. As talk turns to government subsidies for the producers of necessary food products in the tasting room, the question is posed: where are the subsidies for artificial flavorings, like ethyl vanillin?

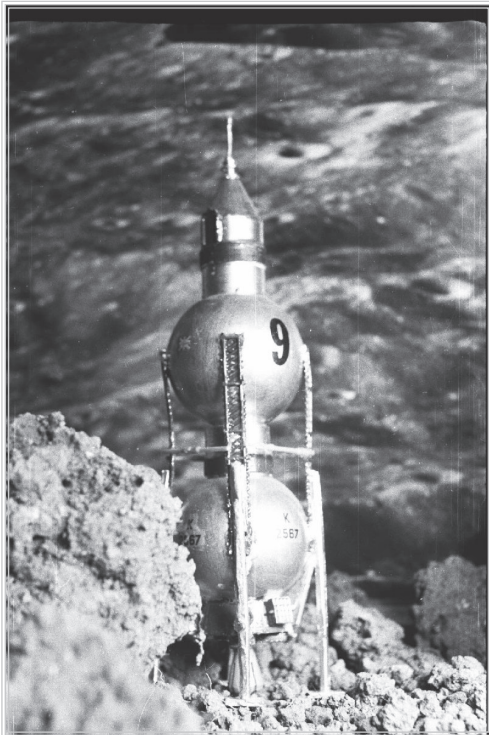
"I just don't get it," said flavor chemist Simarjeet Narula. "The wheat producers out West are bitching about Bush's proposal to cut their subsidies by five percent. Yet here we are, making something every bit as necessary for the country's health and nutrition needs—I mean, have you ever

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subsidies, continued on page 3

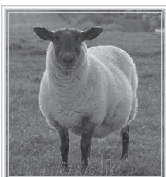
## Did you know...



In a former life, Dean Burnett was a ninja?



"Chinese toilet seat" is euphemism for "spaceship"?



Sheep are not worth it...

## Horoscopes

By Madam Lowre d'Expectations

**Aries (Mar. 21 – April 20):** You have the right attitude for law school, you pompous a\*\*h\*le.

**Taurus (Apr. 21 – May 21):** As you sink into a post-Valentine's Day depression, just remember that your mother still loves you.

**Gemini (May 22 – June 21):** Feeling kind of itchy after the crab fest? Either you're allergic to crab or you got a little too friendly with a certain someone and took some crabs to go.

**Cancer (June 22 – July 22):** You will fall asleep in your first class and almost drown in your own drool; sit next to someone who knows CPR.



**Leo (July 23 – Aug. 22):** Don't be afraid to express yourself--if anyone can make a mullet look hot, it's you.

**Virgo (Aug. 23 – Sept. 23):** Although you are tempted to treat law school like a rave in San Francisco, you'd be better off leaving the sequined halter top, glow stick, and eye glitter at home.

**Libra (Sept. 24 – Oct. 22):** Don't kid yourself. Everyone knows that you're only wearing a hat to cover up (a) unwashed hair, (b) ugly hair, or (c) no hair.

**Scorpio (Oct. 23 – Nov. 22):** When your Ivy League cousins get on your case, just tell them you go to the best small state law school in the Inland Northwest.

**Sagittarius (Nov. 23 – Dec. 21):** There is a little place in Hell reserved for those who raise their hands two minutes before class ends.

**Capricorn (Dec. 22 – Jan. 20):** Hope you made plans with that special someone early. Romantic President's Day dinners leave much to be desired.

**Aquarius (Jan. 21 – Feb. 19):** Behave yourself on your spring break trip; your wild night at the Tiki Bar may become an issue on the bar application.

**Pisces (Feb. 20 – Mar. 20):** Ask your mom to get your old room cleaned up because your law school career is in jeopardy.

*inter alia*

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*inter alia* is the University of Idaho, College of Law's official humor and opinion pamphlet, published on alternating Wednesdays. Submissions for publication are encouraged. Any opinions represented herein are those of the indicated author or *inter alia's* staff and in no way represent the opinions of the Student Bar Association. *inter alia* also knows there is nothing more sexy than poplin.

## Cultural Diversity at a Mostly White School

Okay. So you've probably heard the hubbub about the upcoming diversity training, and you're probably thinking: "lot of good that'll do at a mostly white school – I don't know how discussing diversity will help me as a law student and in my career as a lawyer." It turns out that diversity is a very important professionalism issue.

Rule on point: look up comment 2 to the Rule 8.4 of the ABA Model Rules of Professional Conduct or comment 3 to the Idaho Rules of Professional Conduct. It states that "A lawyer who, in the course of representing a client, knowingly manifests by words or conduct, bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status, violates [rule 8.4] when such actions are prejudicial to the administration of the law" (emphasis added). Yet, we know that the Model Rules, although the grounds for professional discipline, are designed to be guides to a lawyer and the ethical minimum. See ABA Model Rules of Professional Conduct, Preamble: A Lawyer's Responsibilities, 20 (2004). Thus, we, as aspiring lawyers, need to seek for a better world – one in which we are sensitive to the dignity and respect that should be accorded to our peers, our adversaries, our clients, and ourselves. Only then will we become lawyers who are committed to justice and equity, embodied in the maxim above the building the Supreme Court of the United States is housed in states: Equal Justice Under the Law.

I grew up in Southeastern Idaho where many Hispanics have moved into our state. Further, there is quite a divide as to socioeconomic status. Many derogatory and negative terms were associated with the Hispanic culture and the probable income of the families of my high school classmates. To my dismay some of these comments came from the esteemed members of society. It is my hope that as lawyers, as esteemed members of society, we can overcome this cancer.

Diversity training is the beginning of a personal process by which we can start to change or continue to modify our perception of the people with whom we associate. Although Idaho is only approximately 9% racial minority (approximately the same at the law school), there is diversity of all kinds in our state. Sometimes these cultural and other differences are subtle. The training is designed to allow one to see the world from another's perspective and communicate in a non-offensive way. Further, this year's training is focused on the lawyer's role as a counselor and representative of diverse clients. How does culture play into representing a client? What impact might diversity have on what the client expects as a remedy? These and many other such questions can be answered if we are capable of looking past the outside person and attempting to perceive the world from their perspective. I hope all readers of this message will sign up to achieve these benefits. It is only by individual, conscious effort that we may rid the world of the racism, hatred and divisions that separate us in order to obtain the understanding and tolerance that we all desire.

Survey to be conducted at University of Idaho.

What comes to mind when you hear the word "Auschwitz"?

- 1) A Belgium Cake.
- 2) A Swiss Alpine resort.
- 3) A Bavarian mini-skirt.
- 4) A place in Poland.
- 5) Jews.
- 6) Don't know.

-- gobimonk

*[Ed. note: I have absolutely no idea what the author of this submission intended here. I suppose a certain level of general oddity is a welcome change of pace to the logical rigors of the legal industry. Or something. Do I find it humorous? Not really. Do you? I'm not of liberty to say. But is it so offensive as to warrant censorship? I cannot imagine how. As I suggested before, I'm not even sure what was meant, let alone have some idea about whether what was meant is generally offensive. So rather than try to parse through the thinking of this particular submission and its author, I decided to publish it pretty much as is. Enjoy.]*

### Events Calendar

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Thursday, February 17  
Dean/Student Leaders  
Meeting

Room 108

2:30 – 3:30

Student leaders:  
please attend and  
bring issues you'd  
like to discuss.  
Treats will be pro-  
vided.

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Send event listings to  
crtaylor@uidaho.edu.

subsidies, continued from page 1

actually tasted some of this stuff pre-flavoring?—and we get nothing. Yes, I know, we're not even coming close to struggling financially. But neither are some of these farmers. Maybe if they distinguished between the ones who need welfare and the ones who don't, I wouldn't be so inclined to anger."

Scott Steele, deputy director of program analysis with the U.S. Department of Agriculture, did confirm there would be no subsidies for chemical companies in this budget.

"I mean, we're trying to lessen spending here," Steele commented. "Yes, I know Symrise and FFS help Americans choke down the raw food products created by their agricultural brethren. And for this we are grateful. But we're got a budget to balance."



## Why Do We Treat Rape Differently than Battery?

By Christopher Taylor

First of all, I would like to express my extreme displeasure at Idaho's definition of rape, which requires a rapist to have a penis. Second, I would like to analyze the titular question. First, a few definitions:

I will define "battery" as an actual, intentional and unlawful touching of another person against his will (which is remarkably similar to how Idaho defines "battery;" see I.C. § 18-903). And I will define rape as an actual, intentional and unlawful penetration of the oral, anal or vaginal opening with the perpetrator's penis against his will (which is similar to how Idaho defines "rape," although Idaho uses a rather complicated series of words to get to the "against his will" component; see I.C. §§ 18-6101 and 6108). Which is to say that rape is a special form of battery.

So why do we treat rape differently that other forms of battery?

One possible explanation is that rape is special because of its sex crime status. Which goes against the enlightened teaching that rape is a crime of violence, generally perpetrated to satisfy nonsexual urges. Indeed rape, unlike other sex crimes (e.g. photographing nude children, repeated and unwanted sexual advances), does not require a sexual motive. We tend not to care whether an alleged rapist was titillated by penetrating his victim's vagina with his penis; whereas we tend to care very much whether an alleged child molester was titillated by bouncing a child on his knee. Why the distinction? Is rape mistakenly classified as a sex crime?

Another possible explanation is that rape involves "special" parts of the body. Let's examine the

parts of the body that are involved. As a threshold point, I think we can rule out the significance of the mouth; punching out another's teeth is treated as a non-rape battery. And we must rule out the significance of the anus; a spanking alone does not a rape battery make. We must furthermore rule out the penis; while not the target of the familiar debilitating kick—that would be the testicles—it is I'm sure a regular recipient; and it would be difficult to describe a foot-meets-male-crotch encounter as a rape. And then we must rule out the vagina, which is the subject of non-rape battery most every time a baby is born. Thus, the body parts the Idaho legislature cordoned off as "special" turn out not to be.

Yet another possible explanation is that rape involves penetration. Which does little to explain why rape is treated differently than, say, plunging a finger into another's eye socket.

Still another possible explanation is that rape victims tend to suffer substantially more emotional trauma than other battery victims. Which makes me wonder: does such a basis for the rape vs. battery distinction comport with criminal defendant's constitutional rights? For example: would it not violate an alleged convenience store robber's rights if he faced a significantly higher penalty because the clerk he allegedly threatened with a pistol is particularly prone to emotional trauma in the face of a gun than the average convenience store clerk? Or if a person is particularly sensitive about his nose, should those who touch his nose against his will be imprisoned for significantly longer periods of time than if they had touched his ear? Yes, you may find psychologists are willing to generalize and tell you every batterer is able to tell the difference between battery likely to produce emotion-

al trauma (including rape battery) and battery that is unlikely to produce emotional trauma. But only a few decades ago, psychologists were willing to tell the court system it should screen rape victims to determine whether they had a propensity to falsely accuse. So perhaps we should discount psychologists' statements.

Even another possible explanation for the distinction is that because a rape victim is overwhelmingly likely to be a woman; and because when rape law was being developed, a given woman was overwhelmingly likely to be considered property; and because when rape law was being developed, a given husband-owner was overwhelmingly likely to be protective of certain special parts of his wife-property; the rape/battery distinction is premised on sexism and tradition. And since everyone likes sexism and tradition in the law, perhaps that is enough.

Who, or what, is  
Coco Jesus?

A chocolaty breakfast cereal?

A fashion designer?

A coconut savior?

A sexual position?

Find out  
in the next issue of  
inter alia..