

Lex | Brevis

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WESTERN NEW ENGLAND UNIVERSITY SCHOOL OF LAW



REFLECTION

FROM THE EDITOR'S DESK



AMARA RIDLEY

LEX BREVIS Editor-in-Chief

"History, despite its
wrenching pain,
cannot be unlived,
but if faced with
courage, need not be
lived again."

—Maya Angelou

Reflection

This new year has brought about significant changes and opportunities for introspection, individually and as a society. It would behoove me to acknowledge our recent Presidential election, inauguration and subsequent global marches held in protest. Whether or not you agree with the outcome of any of these events, the fact that people are talking so openly and frequently about the future of this country and society is healthy. Discourse and dissent are deeply American and help to transform society into a more equitable existence. I can only hope that we continue to use the tools we have as legal minds to improve the legal system.

I look forward to what is to come with regard to social justice advocacy and increased representation. On a micro level within our law school community, our students and faculty are involved in some really interesting and diverse endeavors. I hope Lex Brevis continues to be an accurate reflection of our community. As always, we welcome submissions from students, alum, faculty and those in the broader legal community. Keep moving. There is work to be done.

With Warm Regards,

Amara Ridley
Editor-in-Chief

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We, at Lex Brevis, are always looking for ways to improve. We would love feedback to better serve our law school community. Enjoy the issue.

Email us at LexBrevis@gmail.com

Why Celebrate Diversity?



by **Sophia Castillo**
 LEX BREVIS Staff Writer
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They go by all kinds of fun acronyms and almost every school in the country has one or more of them: clubs and organizations devoted to celebrating diversity. At our own Western New England University School of Law we have organizations like the Black Law Student Association and the Latino Law Student Association, and at the undergraduate level, the United and Mutually Equal club—but what exactly is the purpose behind these organizations? Do they serve only to highlight minority students and leave non-minority students out of the loop? Why do we need to celebrate diversity so much anyway? These questions may be answered in recognizing what diversity means to us as a nation and how it enriches our everyday lives.

What exactly does diversity mean? The Merriam-Webster dictionary defines diversity as the condition of having or being composed of differing elements; variety; the inclusion of different types of people (as people of different races or cultures) in a

“Diversity: the
 art of thinking
 independently
 together”

—Malcolm Forbes

group or organization; an instance of being composed of differing elements or qualities.

Diversity, described in this light, seems to be at the very core of America as we are a nation made up of different types of people and composed of a variety of races and cultures. The “tossed salad” metaphor comes to mind. How does this affect the average person? How does it affect you? Why should you bother to appreciate or even to celebrate a seemingly naturally-occurring

phenomena? The answer lies within each and every person’s responsibility to be an active member of our ever evolving society in maintaining an environment where diverse thoughts, cultures, and perspectives may thrive.

Diversity is bigger than just race because it also encompasses characteristics such as ethnicity, religion, sexual orientation, cultures, beliefs, etc. There is an inherent beauty in this diversity that makes up the world as it allows for a collaboration of thoughts and ideas that create an ever-changing society. This collaboration allows for the advancement and progression of all facets of life including science, philosophy, and so on. Without the diverse makeup of this world that we live in, we would never change, never evolve, never advance. It is thanks to diversity that we live in the society that has transformed into what it is today. In order to allow for this progression to continue, we must foster an atmosphere that allows diversity not only to remain apparent, but to thrive. We must

celebrate diversity for its ability to inform and enrich us as it guides our expansion.

As a University, there is an intrinsic duty for us to recognize diversity as the building block to a culture within which humanity is highlighted. If we can respect and consciously recognize the gift of diversity brought to the table by each member of our community, we can create a space that allows each and every one of us to thrive. Through collaboration, we can enrich and strengthen our network to maintain and increase success.

While it may seem like enough, to some, to simply tolerate one another's diverse backgrounds without the need for actively celebrating them, it is this type of attitude that has impeded the improvement of many issues prevalent today. Maintaining an open mind is imperative to success in a world where diversity rules and understanding where others are coming from is paramount to this open mindedness.

Celebrating diversity allows us to celebrate what makes us different, but more importantly, unites us by abetting the realization that we are all immanently the same. It can become easy to isolate ourselves to comfort zones where we avoid confronting different types of people but by actively celebrating diversity—be it through attending the next LLSA potluck or engaging in the next Color of Law Roundtable—we can enrich ourselves with thought provoking community growth. The growth and advancement of society rests in our ability to tolerate and respect one another regardless of background or perspective.

There was once a time in our history that allowed us to legally consider Black Americans as only $\frac{3}{4}$ of a person. There was also a point in time in our history that treated all Hispanics as Mexicans and confined them to separate facilities from Whites who also were kept separate from Blacks. Throughout history, different groups of people have been underrepresented and mistreated and the underlying reason for such injustice has consistently tied back to the fear of those who are different from us. It seems almost human nature to

fear the unknown and what we are not accustomed to. Because diversity was not historically celebrated, there was no awareness surrounding it and people were unable to understand—and thus unable to tolerate—these “others” who were so different from themselves.

Today, we face an era where the rights of individuals who identify as LGBTQ are constantly called into question. In order for basic social and human rights to be granted, without prejudice, to this group of people, more awareness must be raised. We go through these periods of not tolerating groups of people because we do not understand their diversity, and it tends to result in embarrassing decisionmaking. If we are to continue improving the way in which we treat “others” we must realize that awareness is key—we can then, hopefully, one day eliminate this “other” mentality.

In order to thrive as a community, as a nation, and even as a world, it is imperative that we realize that diversity is something to celebrate rather than to fear. Fear of the unknown and misunderstood has led only to embarrassing catastrophe. We must learn that society thrives and evolves through the different perspectives brought by people of all backgrounds. By celebrating diversity we can learn, not only about our differences, but also about what unites us; we can create an understanding of how we are enriched by our differences. In celebrating diversity, we create an environment that fosters advancement by allowing strengthened networks and informed perspectives. Let us not fear the unknown, but go forth and celebrate it; celebrate it until it is understood clearly enough to supplement our own knowledge. Celebrate the diversity that allows us to evolve.

License Trolling



by **CHRIS MUTCHLER**
LEX BREVIS Staff Writer
Christopher.Mutchler@wne.edu

Legal action arising from “public performance” of copyrighted music is initiated against small businesses fairly regularly. As copyright law is an area in which relatively few attorneys have experience, and because these actions tend to be initiated only when a party is very clearly in violation of federal law, fighting them can be costly. Thus, small businesses are often forced to settle for substantial sums of money. These actions are easily avoidable. However, due to the complexity of federal legislation, many small business owners become aware of the existence of relevant law only once action has commenced, at which point it is too late.

Knowledge of the laws governing copyright infringement, of the legal significance of the cease and desist letter, and of practical aspects of litigation could potentially reduce legal costs associated with operating a small business.

Title 17 of the United States Code defines the scope of “exclusive use” rights constitutionally granted to authors. 17 U.S.C. § 110 imposes limitations on the enforceability of these rights, known as “fair use”. 17 U.S.C. § 110(5) sets forth several exceptions to fair use in instances where copyrighted works are performed publicly. Many actions of the type described herein are based on these exceptions.

“License Trolling” actions arise when an agent of a mass licensing agency (most prominently Broadcast Music, Inc. and ASCAP) is sent to a business location in which music is played. The agent takes note of all songs that are played in their presence, and determines which of those titles are licensed

to their employer. If (or more likely, when, as the registries are extensive) a song in which the licensing agency has an interest is found to have been played, a cease and desist letter is sent to the business, complete with a settlement demand and draft complaint.

Many business owners believe that they are in compliance with copyright law if they are playing music from the radio, off of a legally purchased CD, or from a subscription music streaming service like Spotify[®]. This is not the case. Federal law differentiates between the right to personal use and to public or commercial use of copyrighted material. Unless a business owner has explicitly purchased a license to the latter, the owner is not in compliance with federal copyright law.

Copyright infringement is any unauthorized use of the original creative works of another; having a license is merely a defense. Any use of a work that one has not oneself originally authored is copyright infringement, ipso facto. Misinterpretation of this litigative structure can become problematic in view of certain circumstantial remedies. Improperly asserting the § 110(5) defense, for example, statutorily authorizes heightened actual damages, and willful infringement – even in the absence of actual damages – may be remedied by statutory damages.

As litigating federal lawsuits can be costly, people who find themselves on the defending end of a copyright infringement claim are often stuck between a rock and a hard place. Many settle early to minimize total costs, even if they believe themselves to be in the right. These settlements are not insubstantial, and a copyright infringement lawsuit can have a major impact on a business’s bottom line. Litigation is expensive, and a copyright infringement suit could really hurt a small business. Attorneys advising small businesses should be aware of this potential, and add its avoidance to their arsenal of advice.



Word Online

Do you use Microsoft Word?

If so, you may want to sign up for this crash course on document formatting using some of the advanced features of Microsoft Word including:

- *how to change page numbering schemes within a document*
- *how to create tables of contents and authorities*
- *how to use advanced editing*
- *how to create footnotes*
- *how to create multi-level lists*

This course will be conducted entirely online between February 1 & March 10. The instructor, Artie Berns, will be available to help through email, by phone, or in person.

Participants who successfully complete the course will receive a personalized certificate of completion and something exciting to put on their resume!

Space is limited to twenty people so sign up quickly!

Please follow this link to register: <http://tinyurl.com/h6pveqg>

Questions: contact Artie Berns, phone: 413-782-1454, email: artie.berns@law.wne.edu

Professor Jennifer Levi



by **Marketia Wright**
LEX BREVIS Staff Writer
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What's your favorite thing about the law? Least favorite?

I like that the law is largely predictable. When I was in law school and mired in the details of learning it, I sometimes lost the forest for the trees. When I was studying for the bar exam, a friend reminded me that the law determines the way people must live their lives. And that it is supposed to mostly be determined by the people who are subjected to it. So, it should reflect the ways broadly shared ideas about how people should live and act. We learn and focus on the exceptions to that while in law school. But, unlike particle physics or base 4 multiplication, it's supposed to reflect our common experiences.

Did you always want to go to law school? If not, what made you want to go to law school?

No. After college I started a Ph.D. program in mathematics. I loved mathematics and dreamed of becoming a theoretical mathematician. Shortly after starting my graduate program, I learned to play rugby and took a detour into competitive athletics. Once I left mathematics, it was hard to imagine going back to it. While playing competitive rugby in my twenties, I worked in software development but also became increasingly involved in activism relating to lesbian, gay, bisexual, and transgender issues. I increasingly found more of my time going to unpaid activism and wanted to flip the ratio of my paid to unpaid work. I thought if I went to law school I could make that happen.



Education: A.B., Wellesley College, J.D.,
University of Chicago Law School

Courses Taught: Alternative
Reproductive Techn., Constitutional
Law, Family Law, Gender & the Law,
Sexual Orientation and the Law, Sexual
Orientation, Gender Identity & the Law

What did you enjoy most about law school? Least?

I enjoyed a lot of things about law school. I found the classes interesting and the discussions engaging. I moved to Chicago for law school and had the chance to develop a relationship with a new city and a part of the country about which I knew very little. I was super impressed with the faculty and liked hearing their big ideas.

I went to school with a seriously smart and competitive group of classmates, one of whom was the child of a Supreme Court justice. I often felt behind the learning curve which did not feel too good.

If you had to do it all again, would you?

Hard to say. I continued to play competitive rugby throughout law school. Looking back, I might have tried to put off law school longer and commit myself fully to competitive sports. I played in the first Rugby World Festival which was held in New Zealand in August 1990. I took time from my position as a summer associate to do so. My employer at the time did not look too favorably on my taking time off for sports (which seems quite understandable in retrospect). I had to juggle intensive training while trying to learn how to be a lawyer. It was probably too much to take on at once.

On the other hand, I have had tremendous legal opportunities and been able to lead some important, path breaking litigation. I am proud of the legal work I have done and am grateful to have found a career which allows me to pursue work about which I feel passionately.

What made you transition from practicing to teaching?

Well, I am fortunate to be able to keep my hands in both teaching in practice. The practical story is that after my first child was born, I intended to fully leave practice because I wanted to focus on teaching and scholarship. I had the chance to continue to do some of the legal work about which I am most excited and get to build my teaching and scholarship around my continued involvement in LGBT advocacy.

What do you like most about teaching? Least?

Most – I like hearing about my student's experiences and really enjoy learning about the connections they make to pressing legal questions and issues.

Least – Grading.

What was your first legal job?

After law school, I clerked for a judge on the First Circuit Court of Appeals. After that, I started as an associate at Skadden Arps, a major, international law firm.

Tell us about your first experience in court or your first big assignment.

One of my first big assignments was editing and getting final sign off on corporate documents for a huge deal. My job was to run around to corporate offices in New York City, find senior VPs, and get their signatures. I accidentally missed getting one and didn't realize it until around 2 a.m. the night before the closing. I called

the person in the middle of the night to see if I could get to his house around 5 a.m., get his signature, and try to finalize revisions of the deal documents before then. He gruffly explained that I could get the signature after the deal closed. He laughed a bit after that before hanging up the phone.

Do you find yourself critiquing legal shows about their “realness” factor?

I don’t tend to watch a lot of legal shows. I do enjoy reality shows, though, and often critique them for the “realness” factor.

When you’re not helping to shape legal minds of the future, what do you enjoy doing in your spare time?

Lately, I listen to a lot of books on Audible. I used to knit but haven’t had the time to really do so since my kids were born. My son plays soccer and I have enjoyed coaching his indoor team in the winter months. When the weather is nice, I enjoy running (or at least I like how it feels after I run). I ran 2 half-marathons last summer (into the fall).

Tell us about your favorite vacation?

I’ve had some pretty great ones. My (now) spouse and I traveled the ring road in Iceland from Akureyri to Reykavik in November over 15 years ago. We joked about whether we would know the aurora borealis when we saw it. When we did eventually see it, we were astounded, and laughed about how we had wondered whether we’d know if we’d seen it.

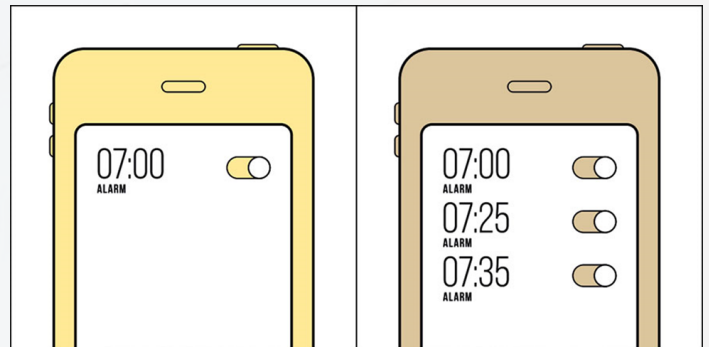
What is something you’ve always wanted to do, but have yet to do it?

I’d like to climb Kilimanjaro and go to Everest base camp.

What is one food that you would eat everyday if you could?

Ice cream. And I do eat it nearly every day.

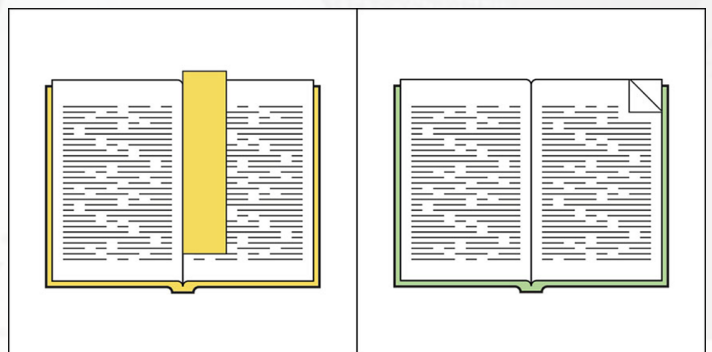
Which type are you? Set one alarm or multiple to wake up on time?



Joe Rocha, an art director from Lisbon, Portugal, created the image

I definitely only set one alarm. And often I don’t even do that. I have a very precise internal alarm. Sometimes I wish I didn’t.

Bookmark or fold the page?



Joe Rocha, an art director from Lisbon, Portugal, created the image

Kindle and audible. Who reads books?

The last and most cliché question of all: You are on a deserted island, what 3 things do you want with you?

My spouse and 2 kids.

A Forum on Immigration Issues in Hampden County

Friday, February 3, 2017

12:30 – 3:00 p.m.

The recent Presidential Election has focused significant attention on potential changes to the nation's immigration laws and policies. While immigration issues have national implications, the ultimate impact can be very local.

With this in mind, Western New England University School of Law is hosting *A Forum on Immigration Issues in Hampden County* to discuss how communities in western Massachusetts may be affected.

The forum will feature representatives from local community organizations and law firms that work on immigration issues on a daily basis. The panelists will introduce their organizations and discuss their perspectives on current events, including how anticipated changes in immigration policies may affect their operations and the services they provide to their immigrant constituents. The presenters will also explain how interested students and community members can become involved.

This forum is intended to provide accurate and current information, to reduce misinformation in our community, and to further the conversation and collaboration among local organizers, advocates and affected communities.

This event is open to the public and geared toward local residents concerned about immigration issues, advocates, and all affected constituencies.

Professor Sudha N. Setty, Associate Dean for Faculty Development & Intellectual Life and Professor of Law will moderate.

If you have any questions regarding the forum, you can contact **Assistant Clinical Professor Bob Statchen** at rstatchen@law.wne.edu or 413-782-1469.

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SCHEDULE AND PARTICIPANTS

Complimentary Light Buffet Lunch Served: 12:15

Panel 1: The Legal Framework: 12:45 – 1:25

Attorney Marie Angelides, Angelides Law Firm, Longmeadow, MA

Attorneys Joseph P. Curran and Megan E. Kludt, Curran & Berger, LLP, Northampton, MA

Staff Attorney Hilary Thrasher, Community Legal Aid/Center West Justice Center – Immigration Unit

Panel 2: Service Providers for Immigrants in the Community: 1:30 – 2:10

Staff Attorney Ellen Viscuso, Ascentria Care Alliance, Westfield, MA

Executive Director Kathryn Buckley-Brawner, Catholic Charities Agency, Springfield, MA

Executive Director Laurie Millman, Center for New Americans, Western MA; **Attorneys Joseph Best and Scott Clark**, Best & Associates LLP Immigration Law Group, Pittsfield, MA

Program Director Deirdre Griffin, New Americans, Jewish Family Services of Western MA

Panel 3: Community Organizational Responses to Support Immigrants in the Community: 2:15 – 2:55

Organizer Diana Sierra, Pioneer Valley Worker Center

Attorney Bill Newman, Director, Western Massachusetts Legal Office, ACLU

Attorney Michael Fenton, Esq., Springfield City Council

Additional Q&A: 3:00 – 3:30

1215 Wilbraham Road, Springfield, MA • wne.edu/law

Current U.S. trends on Right to Choice of Physician-Assisted Suicide and Euthanasia



by **Rabia Hamid**
LEX BREVIS Staff Writer
Rabia.Hamid@law.wne.edu

Modern medicine allows people to live longer these days. Resultantly, the ethical issues surrounding end of life care are increasingly important. Proponents of active euthanasia and physician-assisted suicide believe prolonged death in a medical setting is unnatural and undignified, and rather, choose to advocate for “Death with Dignity” by assisted suicide as a humane end-of-life decision.¹

Before I get into the history of euthanasia, let’s clarify concepts. The four terms are at issue: euthanasia, voluntary, nonvoluntary and involuntary euthanasia.

Euthanasia refers to an affirmative act that directly and immediately causes the death of a patient for the benefit of that patient, whereas involuntary euthanasia describes euthanasia against the will of the patient. At times, involuntary euthanasia can mean euthanasia without the formal expressed consent of the patient.

At times, **involuntary euthanasia** can mean euthanasia without the formal expressed consent of the patient. Voluntary euthanasia, involuntary euthanasia, and non-voluntary euthanasia are distinct. **Voluntary euthanasia** occurs “when the patient has expressed a wish to die and another individual assists his death by performing the act of euthanasia.”² **Non-voluntary euthanasia** occurs when a patient is comatose or lacks decisional-capacity, such as when a person is mentally retarded or unable to express their own wishes (i.e. a minor). **Involuntary euthanasia** occurs when a patient with decisional capacity is not consulted or his surrogate refuses yet his life is ended.

“Suicide” and “killing” have negative connotations, while “Right to Die” and “Death with Dignity” have more positive meanings.³ In the United States, euthanasia and physician-assisted suicide means a medically prescribed lethal dose designed be ingested by a competent, fully informed patient who originally requested a prescription for it from a physician.⁴



There is a distinction between voluntary euthanasia and passive euthanasia. The right to “active voluntary euthanasia” is the right to authorize a person to kill another intentionally and directly.⁵ Passive euthanasia refers to the practice of withdrawing or refraining from beginning some type of medical intervention for a terminally ill patient.

An example of voluntary passive euthanasia includes “withdrawal of treatment that has been shown to be futile or terminating life-sustaining equipment, such as ventilators when there is no chance of recovery.”⁶

“Currently, in the United States, there are no federal laws regarding physician-assisted suicide.”

Historical Development of the United States’ Stance on Legalizing Physician-Assisted Suicide

In the United States, decriminalization of both suicide and physician-assisted suicide was not established because suicide was deemed a constitutional “human right” and was no longer considered objectionable. Decriminalization of suicide and physician-attempted suicide originated because “of those who committed or attempted to commit the act were thought to be prompted by mental illness.”⁷ Additionally, in the United States, generally, there is no moral conflict over the idea of physician-assisted suicide. Currently, in the United States, there are no federal laws regarding physician-assisted suicide.

***In re Quinlan* (1976)**

In the 1976 landmark case, *In re Quinlan*, the New Jersey Supreme Court held that the right to die was legal.⁸ In this case, the father of a vegetative daughter was granted his petition to have her respirator removed so that she could die in peace.⁹ The New Jersey Supreme Court balanced the daughter’s right to die with the “state’s interest in preserving life” by stating that the “right to privacy grows as the degree of bodily invasion increases and the prognosis dims.”¹⁰

In 1997, the New Jersey Supreme Court rejected the right to die in two previous cases, holding that banning physician-assisted suicide is not a violation of due process or equal protection.¹¹ The Ninth and

Second Appellate Courts maintained that modern medical advances have made it hard to differentiate between active and passive euthanasia. Some state courts advocate for a common-law basis for a “right to die,” with references to the state and federal Constitutions.¹² Though initially, the New Jersey court recognized a Constitutional “right to die” in *In re Quinlan*, it later

recognized that the Constitutional determination was “unnecessary and retrenched.”¹³

Oregon’s Death with Dignity Act/ Right of Choice (DWDA)

Oregon’s Death with Dignity Act (DWDA) allows terminally-ill adults who are Oregon residents to obtain and self-administer lethal doses of prescription medication. Since the law passed in 1997, a total of 1,327 people have had DWDA prescriptions written and 859 patients died ingesting medications prescribed under the DWDA.¹⁴ The top three end of life concerns that triggered individuals to make a decision to die sooner rather than later are : “1) loss of autonomy; 2) decreasing ability to do activities that make life enjoyable; and 3) loss of dignity. Other reasons that were identified less often are: 1) losing control of bodily functions; 2) burden on family, friends, caregivers; 3) inadequate pain control or concern about it; and 4) financial implications of treatment.”¹⁵

The following are factors that must be met for the DWDA to apply: “1) terminal disease that is incurable and irreversible and death is within 6 months; 2) Oregon resident voluntarily requested to end life in a humane and dignified manner; 3) at

least two witnesses and one is not a blood relative or beneficiary; 4) attending physician takes prescription to pharmacist; 5) consulting physician confirms terminal disease; 6) family notification recommended (but not mandatory); 7) individual must make an oral and written request to end life and then after 15 days make another oral request; and 8) no provision in contract, will, or law will affect end of life decision.”¹⁶

Though the American Law Institute’s Model Penal Code was drafted in the 1950s and 1960s, it did not criminalize suicide or attempted suicide, but surprisingly did criminalize aiding another person to commit suicide.¹⁷ The act of suicide is legal in all fifty states. Every state has abolished criminal laws against suicide.¹⁸ Proponents of physician-assisted suicide believe that “granting an exemption from the criminalization of assisted suicide and active euthanasia would be consistent with Supreme Court precedent. The Court has denied exemptions from laws that burden the exercise of a religious belief only when the government has asserted a legitimate secular interest in refusing the exemptions. In these cases, the ‘conduct or actions so regulated have invariably posed some substantial threat to public safety, peace or order.’”¹⁹

In the U.S., there is no form of legal punishment for suicide, or for attempted suicide. Physician-assisted suicide is only legal in six states, including Colorado, Oregon, Vermont, Washington, Montana, and California. In Montana, courts have ruled that individuals must have a terminal illness as well as a diagnosis of six months or less to live, to qualify for physician-assisted suicide. Forty states specifically ban physician-assisted suicide, and four states (North Carolina, Nevada, Utah, and Wyoming) do not have any laws regarding physician-assisted suicide. The current trend seems to be that physician-assisted suicide will become legalized in many states in the near future.

References

¹ See Yousuf RM & Mohammed Fauzi AR, Euthanasia and Physician-Assisted Suicide: A Review from Islamic Point of View, Department of Internal Medicine (IMJM), Faculty of Medicine, International Islamic University Malaysia (12 Oct. 2016),

<file:///C:/Users/Rsh/Desktop/End%20of%20Life%20Issues/islam_physician%20assisted%20suicide.pdf>.

² See Id.

³ See Id. At 449, 450.

⁴ See Id. At 450.

⁵ See Kamisar, Yale, “The ‘Right to Die’: A Catchy But Confusing Slogan,” 73 Mich. B.J. 184, State Bar of Michigan, 1994.

⁶ See Yousuf RM & Mohammed Fauzi AR, Euthanasia and Physician-Assisted Suicide: A Review from Islamic Point of View, Department of Internal Medicine (IMJM), Faculty of Medicine, International Islamic University Malaysia (12 Oct. 2016), <file:///C:/Users/Rsh/Desktop/End%20of%20Life%20Issues/islam_physician%20assisted%20suicide.pdf>.

⁷ Kamisar, Yale, “The ‘Right to Die’: A Catchy But Confusing Slogan,” 73 Mich. B.J. 184, State Bar of Michigan, 1994, citing Thomas Marsan et al., Suicide: A Constitutional Right?, 24 Duquesne Law Rev. 1, 68-100 (1985).

⁸ Shelly Cohen, De-moralizing Death: A Humanistic Approach to the Sanctity of Life, 14 Elder L.J. 91, 95 (2006).

⁹ See *supra* note 118.

¹⁰ See *supra* note 118 at 96, 97.

¹¹ See *supra* note 118 at 98 and Lee v. Oregon, 891 F. Supp. 1429 (D. Or. 1995).

¹² Furrow A 315, citing In the Matter of Travel, 661 A.2d 1061 (1995).

¹³ Id. at 299, citing *In re Quinlan*, 70 N.J. 10 (1976).

¹⁴ See “Oregon’s Death with Dignity Act—2014,” Oregon Public Health Division, <<http://public.health.oregon.gov/ProviderPartnerResources/EvaluationResearch/DeathWithDignityAct/Documents/year17.pdf>> and Kane v. Kulongsowski, 871 P.2d 993 app. At 1001 (Or. 1994).

¹⁵ See Oregon Public Health Division, Oregon’s Death with Dignity Act key findings in 2014, <<https://www.healthoregon.org/dwd>>.

¹⁶ See *supra* note 172.

¹⁷ See American Law Institute, Model Penal Code and Commentaries, Part 1, section 210.5 at 94, 100 (1985); American Law Institute, Model Penal Code 56-57. See note 3 *supra*.

¹⁸ See Edward Rubin, Assisted Suicide, Morality and Law: Why Prohibiting Assisted Suicide Violates the Establishment Clause, Social Science Research Network Electronic Paper Collection, <<http://ssrn.com/abstract=1546648>>.

¹⁹ See Previn at 611.

STUDY ABROAD

Winter 2016

Israel

This winter break, five Western New England University law students and four students from other law schools went to Israel to learn about the legal system and in particular how it addresses gender equality and LGBT civil rights in comparison to U.S. law. Here they answer your questions about their experience.





What were the classes like?

Shannon Tarleton, IL:

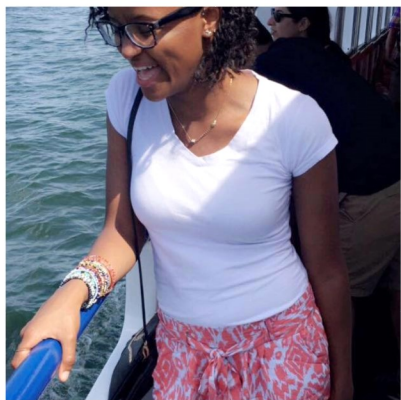
The classes we took while in Israel covered a variety of topics and issues while highlighting some amazing scholars that have invested their lives into the international study of family, gender, and international law. Class ranged from four to six hours depending on the day and was always broken up with a lunch break in the middle of the day. We started by learning some foundations of Israeli law. We also covered family law and the role that religious courts play in areas of marriage and divorce. Understanding the role of religion helped us understand the latter topics of gendered modesty, religious freedom, and how they are represented and manifested in the everyday culture of an Israeli citizen. Our professors ranged from scholars to advocates to lawyers who were fighting for the rights of those who do not have public voices in Israel. They all shared their own experiences as well as enlightened us to the ways we are so similar and so different from those on the other side of the world from us.



Any cool field trips?

Emily Cintorino, IL:

We took two field trips to Jerusalem. While at the Knesset (Parliament) we learned that the government attempts to have a very open relationship with the community about all of their legal matters. Most of the committee hearings are open to the public to sit in on if they choose to. When the class had the chance to talk to Supreme Court Justice Barak-Ereza while at the Israeli Supreme Court, I asked her if she had any criticism or comments to make regarding the United States legal system because of its difference to the Israeli court system. She responded by sharing her observation: that the United States is the extreme in their division between state and church because we draw such a definitive line between the two, which is different from how many countries around the world work. It was an eye-opening experience when we went to Jerusalem and visited the Women of the Wall. Seeing women fight for their right to wear prayer shawls and sing prayers from the Torah was surreal. Men and even other women were whistling loudly to ensure that no one could hear this group of women fighting for their religious freedom. Finally, while visiting the Women of the Wall we were also able to write prayers on little pieces of paper and place them in the wall before we left.



How has this trip changed you?

Hadiatou Barry, 3L:

I've always wanted to travel the world and see as many new things as possible. This trip was the start of that journey for me. However, little did I know that it would do a whole lot more than fulfill my need to travel. I have learned so many new things that I could not get in a classroom or textbook alone. I have learned things from the locals, the other students in the class, and from the different professors and their personal take on things. I have learned from myself and realized that I have a far greater interest in gender issues across different countries and religions than I thought. And I plan to pursue those interests throughout my law school career and beyond. Because of this and much more I would absolutely recommend this experience to others. Even if you only go out and see a new country, that alone is life changing and worth the journey. Although I had a few doubts about this course prior to its start, I do not regret any part of it and would do it all over again in a heartbeat!

What did you do with your time off from class?

Claribel Morales, 1L:

Time off was great because we were able to experience Tel Aviv as tourists on our own. We visited the beach which was walking distance from me, Shannon and Emily's Air BnB, we were able to buy fresh juices from a local vendor, take pictures on the beach and as I did put my hands in the water, and surprising wasn't that cold for winter time. We also rode bikes along the beach path, which really was amazing, the views of the waves and the many surfers testing those waves was something I was glad to share with my classmates. We also got to experience some nightlife in Tel Aviv, the clubs were very packed however, I still enjoyed just being able to dance and unwind because I still wanted to think of it as some sort of break from the semester.

We had Saturdays off, but had the option to travel with the group. We got to visit Bethlehem and the Church of the Nativity on Christmas Eve, a surreal experience. For someone that has never been away for the holidays, getting to see the birthplace of Jesus on Christmas Eve was an experience of a lifetime. Our trip ended on a very high note, visiting Masada and the Dead Sea, and swimming in the Dead Sea, putting the mud on my face and body and just floating along with no care in the world, made me realize how lucky I was to go on this trip. I enjoyed my time, there couldn't have been a better group of people to experience this trip with, our discussions, and our ability to stick together and just being ourselves while experiencing wonders, that many people will not get to experience. I am truly gratified.



What kind of people did you meet in Israel?

Julie Page, II:

When I chose to invest in this course, connecting with people was the least of my thoughts, yet that opportunity to connect ended up being an amazing hidden value to this program. As a part time evening student, it was great to connect with some of the day students from my own university. Yet, we were also able to connect with students from other universities such as a full time 3L from Wayne State University, MI and 2 Part time students from the University of the District of Columbia David A. Clarke School of Law. We also met Israeli Law Students, many of whom were both soldiers and scholars. The American Students were from all different phases of their Law School career. The Israeli hosts had all completed or were completing their assigned time in the Israeli Defense Force (IDF). Some had stayed on with the military while also in school. It was fascinating to have input from so many different walks of life and backgrounds.

On this trip, I was blessed with the additional benefit of staying in the Youth Hostel. I had originally chosen that option as the most economical yet this choice had additional hidden benefits, namely: the people. Being able to interact with such an incredible cross section of humanity is something that would have been missed if I had chosen an AirBnB or other such option. I would definitely encourage more students to have chosen this dorm environment. Where else could you meet: a Pastor of a home church in Russia, a Canadian Air Force Logistics Officer, the students from a traveling spoken word performance group, a Special Forces Officer from the country of Georgia, a film student from NYU who specialized in documentaries, a young man from Ireland and his friend from South Africa both on break from their Kibbutz for New Year's, Dutch backpackers passing through for one night on their way to the West Bank, a pair of young men from Cyprus who loved to dance and were out at the clubs every night or any of the amazing locals who work in and around the Hostel. All there for different reasons. All there because it was the best place for what they needed. Who would not want to be in Tel Aviv? Not just because it's Israel's second largest city. Not just because it's on the shore of the beautiful Mediterranean Sea. Not just because you can find any kind of food you want (from vegan to Shawarma and everything in between), at any time of day. Mainly it's the people: from the Bedouins in selling vegetables in the market, to the Turkish coffee sipping bankers in their suits, to the man-bun wearing hipsters with their freshly squeezed pomegranate juice, to the surfers in their winter wetsuits on their beach bikes with board racks, waiting at the light next to the gray haired Orthodox Jewish shop keeper whose silver white curls are almost as long as the tassels on the Tzitzit seen sticking out at the edges of his sport coat; all here. All part of what makes Tel Aviv, Tel Aviv and makes Israel, Israel.

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&

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In the Law Commons

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JACOB M. PAINTER, Esq.

JACOB M. PAINTER, ATTORNEY AT LAW

Area of Law: General Practitioner

Class of 2013

What does your work entail?

You could say I am a General Practitioner. However, most of my work entails Criminal Law. Currently, eighty-five percent of my work is assigned work. Most of the counties in New York State have a Public Defender's Office but Clinton County, New York, engages in 18B Assigned Counsel work. Basically, if an individual is deemed to be indigent he/she will be assigned to me for representation.

The types of cases I have handled are anything from a parking ticket to rape (Disorderly Conduct, Burglary, Sex Abuse, DWI, Parole Violations etc.) The bulk of my caseload is usually theft cases, i.e. Petit/Grand Larceny and possession of stolen property to DWI and Drug Possession. Clinton County borders Canada (Montreal is about 45 minutes from the boarder) and is about 5 hours from NYC and 2 hours from Albany. Heroin and cocaine are prevalent due the high markups in which they can be sold here versus in the City. Thus a lot of my cases are drug sales (Criminal Possession of a Controlled Substance 3rd) to Possession 7th (typically for personal use).

What is the most fulfilling part of your work?

I would have to say the most fulfilling part of my work is getting not only a fair outcome for my client but helping someone who otherwise is helpless due to mental ability or financial difficulty.

During law school, what kind of work did you do that helped enhance your skills?

I umpired baseball/softball and refereed basketball. This helped me deal with stressful situations i.e. fans, parents, players, and coaches. I learned how to take a step back and communicate in intense moments. I learned how to make decisions and evaluate situations.

What was the most difficult aspect in school and how did you overcome that obstacle/experience?

Finals Week. This sounds obvious but I believe law school finals week is like an Ironman Triathlon. You have your schedule and you know when your tests will all begin. You know what areas you are strong in and which you are not. Finals week is stressful. I coined it to myself as an Academic Ironman. You are competing against your classmates for an intense three-hour session only to be followed by another discipline the next day. Physically your fingers hurt from typing and your wrist from writing. Clearly you are mentally fatigued as the days progress.

My advice is to have a plan! Make sure you eat healthy during test week. Don't give in to going out with friends that have finished their exams and you still have one more left the next day. Use your

time wisely. Don't try to study every subject every day. Focus on the task at hand. If you have Criminal Law on Monday, Torts on Thursday and Contracts on Friday the preceding Saturday and Sunday should be spent mostly on Criminal Law not Contracts. This makes obvious sense but you would be surprised that when it comes time how much you focus on other areas. The worst thing is to be thinking about one subject area while trying to write about a completely different one.

Also, know your distractions. If noise bothers, get some earplugs that you like. If the chairs are uncomfortable get a pillow to sit on. I think being comfortable in an uncomfortable situation is nearly as important as knowing the material.

Are there any specific programs, committees, clubs that you suggest current students join?

I believe one of the most important things to being a successful attorney is being able to communicate with people. After all you can arm yourself with research and tireless work but if a client does not like you then they will likely find another attorney.

How did you network or if you didn't how do you wish you had? How can students benefit from meeting other attorneys and others within the legal profession?

I did not establish a huge network while in school and I wish that I had. The reason for this is I have met many attorneys since being out of school and have seen the benefit that has given me. Attorneys can be overworked or just not specialized in a particular area of law and will gladly refer that client to you if you have a good

connection with them. There are going to be clients/cases that attorneys just do not have the time for or do not want to deal with. If that attorney knows your name that could lead to more opportunities for you. The little networking that I did was going to events put on by the law school. I suggest if a speaker gives you their contact information that you save it somewhere and write down something significant about their program so that if you ever reach out to them you can say "Good afternoon (JOHN DOE) I was a Student at WNE Law when you spoke about (Criminal Law) two years ago, I am having trouble with this probable cause issue and was wondering if you could help me with it."

"Attorneys can be overworked or just not specialized in a particular area of law and will gladly refer that client to you if you have a good connection with them."

What is something you did or advice you were given that was helpful?

GO TO CLASS! Law school is a marathon each and every semester. Most of the classes are decided on "Judgement Day," a simple three-hour exam that most likely will entail several important topics touched on over a period of fourteen-weeks. I made sure that I sat in the front of every class and had my note book in hand. I did not always read the cases for class. Even if I wasn't prepared I made sure that I was there.

If you use a computer to take notes stay off social media and the web. You will find it easy to pass time in class but once finals are approaching there is nothing more valuable than those notes you personally took. I don't care how great of an outline you get off Barbri or Kaplan, the professor's exam will be relevant to specific things they touched on. I made sure I was always at class but I definitely was not the hardest working student. You would never see me in the library for hours at a time. But I think if you go to class and pay attention you don't have to spend so much

time after trying to figure out what is going on.

Was there a class or area of law you studied that has proven particularly helpful now?

Honestly, not really. I thought I was going to be a Tax Attorney. I was good with numbers and enjoyed those classes offered. I took nearly all of the tax law classes at WNE Law. In fact, I only took one class related to criminal law while I was there and never thought I would practice it. Advice: Take classes that you are interested in first and foremost but get a variety of everything. After all, you are paying a ton of money so you might as well get previews into the many areas of law while you are there. Nothing will beat on-the-job training so do not worry about trying to become an expert in one area of law while in school.

What was your favorite part of attending Western New England University School of Law?

The small class sizes and the accessibility of the professors.

How did the skills you learned in law school transition into the legal profession?

DETAILS DETAILS DETAILS. Law school teaches you how to think. You will think differently than your peers from undergraduate school. Law school taught me to look at the details and be creative. This skill has allowed me to speak more intelligently with clients as well as think of issues I otherwise wouldn't have previous to law school.

Are there any law or regulations that have a strong impact on your area of law?

The biggest one is the Right to Counsel. If a criminal defendant did not have a right to an attorney and to have one appointed if he/she could not afford one, well I would not have a job! DMV regulations as well. This is because of all the DWI Cases I handle. It usually is not the

fine/jail/probation that is the issue for a client it is the suspension of their license. In many cases this is their livelihood.

What surprised you most about practicing?

How much crime was actually in the community in which I grew up in. You hear about crime and see it on the news but until you practice criminal law you really do not understand just how much of it there really is.

What have you enjoyed most in being an attorney?

The interactions with clients. I represent a wide spectrum of people. Some of my clients are college students while others have been to prison four or five times. I enjoy everyone's story about where they have been and what they have done.

What advice would you give current students to prepare them for practice?

Shadow attorneys that practice in areas in which you may be interested.

Lex Brevis



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Lex Brevis strongly encourages collaboration and feedback from law school alumni and others in the legal profession in an effort to further educate and prepare soon to be attorneys.

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