

oyez!

Newsletter for the Young Lawyers Division

Winter

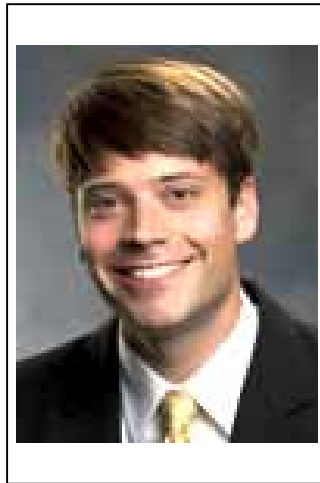
2007

Office Gambling-Harmless Pass-time or Chronic Problem

By Mike Gardner

Gambling as an institution has probably been in existence since the first pay day. Dice similar to those used today have been found among Egyptian tombs and in Chinese excavations dating to 600 B.C. According to Infoplease.com, the FBI estimates that more than \$2.5 billion is gambled each year on the NCAA tournament, only \$80 million of which is bet legally through sports books in Nevada. A survey conducted by Career-Builder.com indicates that one third of workers have entered a Super Bowl office pool. Despite the prevalence of such activity, it may be unlawful under the Constitution of Tennessee. The Supreme Court of Tennessee described the constitutional gambling provisions “as a ‘blanket’ prohibition against lotteries in all forms.” *State v. Netto*, 486 S.W.2d 725, 728 (Tenn. 1972). Lotteries, in turn, have long been defined as “a game of hazard in which small sums are ventured for the chance of obtaining a larger value either in money or articles”. The three elements of a lottery according to Tennessee case law are 1) chance, 2) prize, and 3) consideration. *State ex rel. District Attorney General v. Crescent Amusement Co.*, 95 S.W.2d 310, 312 (Tenn. 1936).

Chance, prize and consideration are all present in the ubiquitous NCAA Tournament office pool. Its seemingly harmless nature does not render it immune from the reach of the law. Tennessee’s Supreme Court found that even “bingo” was “clearly ... a lottery within the meaning of the Tennessee Constitution” where it was conducted for profit and chances were sold for consideration. *Secretary of State v. St.*



Augustine Church/St. Augustine School, 766 S.W.2d 499, 501 (Tenn. 1989). Adding insult to injury, all gambling winnings are taxable. It is ultimately the responsibility of the gambler to report the amount of the winnings. In 2003, 1.54 million taxpayers reported just over \$19 billion in gambling income. The silver lining is that you can subtract gambling losses from winnings if you itemize.

In spite of the strict language of the law and the tax liability, informal betting continues because, short of running a casino in the office, enforcement is almost nonexistent. The status quo for informal office gambling is unlikely to change for a number of reasons. First, monitoring is difficult and raises privacy issues. Second, the payoff of enforcement is dubious in light of the small stakes for which most of the activity takes place. Third, public opinion is that such activity is non-threatening and innocuous.

Not all employers agree. Outplacement consultancy firm Challenger, Gray & Christmas, Inc. predicted that the NCAA tournament alone could cost employers nationwide 3.8 billion in lost wages in 2006 (assuming that each fan spent 13.5 minutes per day watching updates). Employers are also the most able to accurately assess the costs that office betting may have on their productivity. A recent study of nearly 10,000 HR professionals indicated that 30% of the organizations represented do not permit betting pools while 57% are not concerned about the presence of such pools in the workplace. Those employers who see gambling as a problem in their office have a number of

(Continued on page 3)

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From the President . . .



**Rocky
McElhaney
President**

Greetings fellow lawyers, it is great being president and there are lots of things that YLD members have been doing that are both inspiring and amazing and that certainly fulfill our mission: "Service to the Profession/ Service to the Community". I am, first of all, proud of the Young lawyers who stepped it up and worked really hard to pull off this year's Davidson County Mock Trial competition. Thanks Sara and Mary Taylor for all of your work and for marshalling the mad house. I was a coach this year for the competition and because I was so close to the action, I have a new

found respect for it. Thanks also to my wonderful kids at Maple Wood High School for all of the hard work and effort that each student invested into this competition. I really enjoyed introducing these children to the way our court system really works.

Law week, speaking of introducing children to the way the court system really works, is entitled Liberty Under Law: Empowering Youth, Assuring Democracy and has as its focus youth, the issues facing young people in this nation, and concerns of young people in the legal system. This is an especially timely topic in light of the current treacherous trends affecting youth locally. Young people seem to be committing increasingly more violent crimes at younger ages, such as the pizza delivery shooting at the apartment complex in Antioch and the ethnic food delivery shooting on the campus of Tennessee State University and the convenience store armed robbery allegedly committed by a middle-school-age girl. This year the YLD Essay contest and Art contests were preempted by the TCAP testing that students must take in order to pass on to the next grade; however, I hope that members of the YLD will continue to share with young people the necessity of having laws in society and the importance of their participation in the process. I think that these projects promote better access to law and cultivate learning about law in our society.

I look forward to continuing service to the Bar and to the community as well. If you are a young lawyer, or young at heart, and

Rocky

looking for an opportunity to serve the Bar and the community, please join the YLD. There are many great opportunities to be found here and we are looking for more good people. Thanks again to the current YLD members for all of your great work.

Rocky is the principal and founder of the Rocky McElhaney Law Firm and concentrates his practice in representing injured people in workers compensation and personal injury matters.

(Continued from page 1)

options. They may create a workplace gambling policy. A policy which is clear and consistently applied is an effective tool for restricting unlawful activities. Another option is awareness training for employees. Training employees to look for signs of problem gambling among their peers can help reduce the negative impact of addiction in the workplace. Finally, employers can make counselors available for at-risk employees who desire confidential help. Problem gambling is a serious mental health disorder which may be exacerbated in the presence of office pools or other common betting practices.

While office pools enjoyed by so many as March entertainment may be lotteries and thus, unlawful in Tennessee, employees need not fear regulation beyond that of their boss down the hall. In the final analysis, it may be more efficient that way. Employers are in the best place to discern whether gambling represents a problem and how it effects their bottom line. They should take note of informal gambling activity and take responsibility for the health of their workplace with gambling policies and the availability of counseling if necessary.



Mike Gardner is an associate at Waller, Lansden, Dortch and Davis where he practices in the areas of trial and appellate litigation.

DIVERSITY IS A STRENGTH IN THE NASHVILLE BAR COMMUNITY AND GETTING STRONGER!

It is good to see lawyers from all different walks of life who may bring new insights, a different wisdom and a different way of practicing law to this city. It is good to know that this Bar continues to grow the way this city and surrounding community grows so that the Bar can not only reflect the community, but can also richly serve the community. It gladdens this lawyer every time I see diversity in action in the Bar of this city. Congratulations! Keep up the good work!

Jonathan Richardson

TLAP

Do you know a Lawyer who is feeling sad? Call the Tennessee Lawyers Assistance Program and they will help your Lawyer Friend feel glad (or better). Call the Tennessee Lawyers Assistance Program at the number below for help dealing with a range of health and personal issues.

(615) 741-3238

Chalos Brings Paparazzi To YLD



It all started when Mark Chalos decided that he was going to attend the YLD Annual Meeting. Everything was fine until the aforementioned Chalos made that fateful decision. That evening, at the event, we could tell that strange picture taking forces stronger than the rule of reason, you get the picture... POOF! The pictures tell page 5.)



all tell that strange picture taking forces stronger than the rule of law, the the smell of teen spirit... picture or pictures in this

BEHOLD!..... Paparazzi! the story! (continued on

SPORTS CENTER

The XMEN united to defeat perennial champions the GREEN TEAM in the Nashville Bar Association Basketball League tournament. Competition was tough and sportsmanship high. Everyone have a great off-season and see you next year!



Chalos Brings Paparazzi To YLD (Continued)



... And then the red hot gaze of the media shined on others caught in the trap of the camera lens that evening...



That is what happens when you encounter Chalos at a function.

**DAVIDSON COUNTY MOCK
TRIAL COMPETITION WAS A
GREAT SUCCESS**



WE NEEDED VOLUNTEERS

**AND YOU DELIVERED! THANK YOU YLD,
NASHVILLE BAR, NASHVILLE SCHOOLS
AND ALL OTHERS WHO CONTRIBUTED!**

This was one of the YLD's signature events and it provides a great service to the community and establishes goodwill for attorneys and the bar in general.

The YLD thanks you for **your** help with the event as **SCORERS & JUDGES & BAILIFFS** for all rounds!

We thank all sponsors, coaches and students who participated.

A special thanks goes out to Mary Taylor Gallagher and Sara Reynolds for organizing this event.

Thanks for all your help!!!





Word on the Street
by Rob Baker



Weddings/Engagements:

* **Claudia Richardson** of Counsel on Call and Michael Rejebian were engaged this past weekend in New York City. Rejebian, a former investigative journalist, is currently a political consultant in Mississippi, but will eventually relocate to Nashville to be with his fiancé. He is currently searching for a reputable legal placement firm – please forward any suggestions to Claudia.

Births:

* **Mark** and Jennifer Chalos’ daughter, Madeline Joan, was born January 9, 2007. She was 6lbs, 2 oz., and came in at 18.5 inches long. Madeline is ready for her close-up, which is to the right.



Etcetera:

* cONGRATULATIONS cYNDI PARSON.

* Recently, the YLD’s original leader, **John Tarpley**, was photographed during a chance encounter with pop-star turned train-wreck Britney Spears at, of all things, a hoedown. After telling the former Mrs. K-Fed to “keep her chin up,” our founder proceeded to laugh like Woody Woodpecker. When asked to comment on the encounter, Tarpley responded, “I came here to dance in a blue plaid shirt and red bandana, not to talk about my new girlfriend.”



* The Board’s own **Allison LaRue** fired the starting gun at the recent Race Judicata, an event that she organized this year. In unrelated news, last month Ms. LaRue was featured on the pages of *Huntin’ Hunnies* magazine. has obtained a copy of the photograph, which has also appeared on numerous internet chat rooms, some of which are tasteful. When asked to comment on graph, LaRue responded, “What the \$%*#! He said that no one would see this. I mean, doesn’t everyone hold a gun like that?” Although no animals were shot, the Oyez! suspects that the fastest lawyer at the Race Judicata might ought to watch his back (or at least not fly directly over Ali).



The Oyez! websites and the photo-

Race Judicata IV



On Saturday, March 3, 2007 at 8 a.m. Race Judicata IV commenced and became another wild success. The race brought out some of the area's top runners and several prominent civic leaders. Runners braved the challenging hills at Beautiful Percy Warner Park at the [Live Long, Run Longer!](#) Steeplechase to run either, or sometimes both, the 5k and 10k races. This year's charity beneficiary was Magdalene House. It is a two-year residential community for women with a criminal history, or who may be dealing with addiction issues, or may have been involved in prostitution. The YLD wants to thank all participants, the "Race" committee, and especially Allison LaRue.



CALENDAR OF UPCOMING EVENTS:



Date

Event

June 1st

Carbolic Smoke Ball

June 2nd

Ode to Otha