

# Houston Objectivism Society Newsletter

Vol. 11, No. 2

March 1998

## Next HOS Meeting: Book Share

Have you ever reached the midpoint of a book and been disappointed that you had wasted your time? The April HOS meeting will feature an opportunity to discover worthwhile books that have appealed to other Objectivists and to hear why they enjoyed them.

Attendees will gather in small groups, and each person will spend approximately five minutes explaining why the book is worth reading. Members will then rotate into new groups, and share their book with other members.

Attendees should select a book which has probably unknown or unread by other members (this rules out a few obvious choices).

The meeting will be held on April 11 at 6:30 p.m. at the Clubroom of The Meridian apartment complex, 6263 Westheimer (between Hillcroft and Fountainview), across from Payless Shoes. The Clubroom is located upstairs facing Westheimer.

NOTE: Attending members are asked to contribute \$2 to help pay for the expenses of renting this clubroom. We have not been recovering rental costs, and would like to encourage those who have not been contributing to do so. Those attending are asked to bring snack items.

## The Association for Objective Law vs. The United States Supreme Court

by King Wiemann

On January 13, Michael Mazzone of The Association for Objective Law (TAFOL) was in Washington, DC to present a case to the US Supreme Court. Michael was challenging a law regarding Interest on Lawyer's Trust Accounts (IOLTA) in Texas. Since the US Supreme Court did not grant a request by Michael for his side to have two people divide his side's argument time, Michael did not argue before the Supreme Court, but was seated at the counsel table.

The following summary of the case can be found at the web site: <http://supct.law.cornell.edu/supct/97summa.htm#96-1578> PHILLIPS, THOMAS, ET AL. V. WASHINGTON LEGAL FDN, ET AL.

Question Presented: Is interest earned on client trust funds held by lawyers in IOLTA accounts a property interest of the client or lawyer, cognizable under the Fifth Amendment, despite the fundamental precept of IOLTA that such funds, absent the IOLTA program, could not earn interest for the client or lawyer?

Jeanne Nicole, Andrew Van Damme and I went to hear this

case at the US Supreme Court. Here is our travelogue:

We arrived at the courthouse at 8:15 a.m. There were already twenty people on line. (I know this because we were given numbered cards, the first in our group had number twenty one.) They wouldn't tell us how many they were going to admit. "It depends on how many guests the lawyers and justices invite," we were told. We would have to wait outside in the rain and the cold until 9 a.m. to find out.

At exactly 9 a.m., the large brass doors on the Supreme Court building were rolled aside and the first of us began file in. After setting off the first metal detector with my coins and keys and depositing our coats, electronics, and writing supplies, we passed through a second metal detector only to wait in

### INSIDE

Intellectual Activism  
In Defense of Microsoft  
Announcements

### HOS MEETINGS

April- Book Share  
May- Movie: *Love Letters*

line again. Finally, at 9:15 a.m. we were ushered into the back of the courtroom.

The peanut gallery seating section was at the very back of the room. Small, closely arranged rickety wooden chairs were all we were allowed to sit on. The honored guests got to sit in the benches in front of us-- on padded cushions. The Supreme Court room is not a large room, smaller than most large screen movie theaters. The room has a high ceiling with bas-relief sculptures on the upper walls. The justices' bench is parallel to the front wall facing the room. The chairs are grouped in three groups of three with the Chief Justice in the center and the associate justices seated on alternating sides of the Chief Justice in order of seniority, longest members closest to the

center.

We looked for Michael but couldn't see him. There was one man up front who was constantly looking for someone in the peanut gallery. We weren't sure what Michael looked like. We thought he had black hair. This guy had black hair. I approached one of the ushers (or are they bailiffs?) and asked if I could approach the lawyers up front. After receiving reluctant permission, I asked this man if he was Michael Mazzone. He smiled, pointed to the empty counsel bench and said no, but he would be in shortly and seated there.

As the counsel came in and took their seats, we recognized no one. I was sure the short guy at the end, with close-cropped hair was Michael. There was something familiar about him. But his hair wasn't black.

The ushers were very serious about their jobs. There was very little talking. Everyone spoke in hushed tones. No note taking is allowed while court is in session. All writing material had to be left in lockers outside of the courtroom. Everything about the mannerisms and demeanor of those present was consonant with the respect due to the highest court in the United States.

At precisely 10 a.m., a small tone was heard followed by a sharp crack. Everyone stood as the justices appeared to rush in out of nowhere and were immediately seated. The session started off with the reading of 2 decisions. One was a case involving General Motors and a lawsuit in Missouri that Michigan had tried to prohibit testimony in. Justice Ginsburg

read the decision. Justice Souter read the next decision. It was a bankruptcy case. The decision ended with the memorable line "In the federal statute, twenty-one days means twenty-one days."

The proceedings for the IOLTA case began. The first lawyer on the side of IOLTA stood up and wasn't even able to complete his first sentence before Chief Justice Rehnquist pounced on him with a question. During his allotted time, the first counsel seemed unable to answer a direct question or even address any points of law. He just kept repeating himself that without IOLTA the clients still wouldn't get their money and that the money was being used for good purposes.

The second lawyer on the IOLTA side (the Solicitor General of the United States) was addressing specific technical issues about the implementation and interpretation of the law.

Finally, the lawyer opposing IOLTA took the lectern. He was well spoken and direct. He answered both general questions about the purpose and scope of the law as well technical questions on the philosophy of the law.

After the case, we were able to speak with Michael for a few minutes in the hallway as he headed toward the gift shop to buy souvenirs for his kids and to leave by the back door to avoid the press. He looked quite worn out. Michael was pessimistic; his counting of noses had at least five justices against. Michael commented that unfortunately the U.S. has no recognizable property law or philosophy of property

**NEWSLETTER STAFF**

J. Brian Phillips, Editor  
Richard Beals

**EXECUTIVE COMMITTEE**

Warren S. Ross, President  
C. J. Blackburn  
J. Brian Phillips  
Janet Lee Wich

The Houston Objectivism Society supports Objectivism and the Ayn Rand Institute; however, we do not purport to represent or speak for the same. HOS membership dues are \$15 per year (single), \$25 (couple). \$5 (student). The Newsletter address is: P.O. Box 112, Bellaire TX 77402. E-mail: wsross@ix.netcom.com (Warren Ross), or brian@philpaint.com (Brian Phillips).



rights for the courts to fall back on as an obvious overriding constitutional direction.

During the proceedings, I took an approximate nose count of where I thought the justices stood on the issue based on the pointedness of their questions and where their hostility seemed directed. The only justice who said nothing was Justice Thomas. I thought there were clearly five justices in favor of overturning IOLTA and one undecided. I was impressed with Justice Breyer's ability to work exactly on both technical points of law and broad philosophic issues of law and to keep context with both. It was an ominous contrast to the two lawyers for the IOLTA side who

couldn't see the difference between a moral premise, a legal mandate or a point of philosophy. It was also a disheartening contrast with some of the other justices who couldn't get past examples to get to a principle. Only Justice Breyer seemed able to clearly recognize how to address this as a property issue but seemed unable to convince himself that it was (mainly because of legal precedent.)

Outside, we approached the press area and heard lawyers for both sides briefly re-try their case for the cameras. The President of the American Bar Association made it clear that he thought the issue was one of service, duty, and altruism. A lawyer against IOLTA

made it clear he thought the issue was one of sanctity of property.

By this time, the weather had cleared. The sky was blue, the air, warm. The walk back to the train station was in sunny weather. The transition from dreary weather before the hearing to sunny weather after could only lend itself to optimism for a turning point in the US Supreme Court.

In an e-mail I received from Michael after the arguments, Michael explained that quite often the justices will ask softball questions not because they are in favor of that side but because they are trying to make a point to another justice.

## Intellectual Activism

I would like to commend USA TODAY for the synopsis of competing tax reform plans on the table for 1998 ("Leading Proposals for Federal Income Tax Overhaul", December 22).

However, progressivity, the principle that the wealthy should pay a higher percentage in income taxes, was listed as a "pro", implying it is desirable. It's an injustice and should be labeled a "con".

The United States is the first country in history where a person's wealth is not granted by royal inheritance or political muscle but earned by hard work, business savvy, and brains. The best and the brightest - men like Andrew Carnegie, J.P. Morgan,

and Henry Ford-- were so exceptional in these qualities that they rightly became multimillionaires.

As originally proposed, the income tax was to be only imposed on such giants. But, as the federal government expanded over the years, so did its definition of the rich to include most Americans. Today, income brackets are a remnant of the "soak the rich" policies of the original income tax advocates.

The progressivity principle stems from the same mentality that now advocates million-dollar-per-day fines against Bill Gates while claiming to champion competition and consumer choice.

It stems from the same

mentality that jailed Michael Milken and cost him millions [seized his life's earnings] for a victimless "crime" so vaguely defined that the Securities and Exchange Commission can interpret it to mean almost anything.

The rhetoric Americans will hear from progressive-tax advocates is just a smokescreen. The real agenda is the envious desire of mediocrities to punish achievement, success, and intelligence.

The flat tax, at the very least, refuses to pander to this injustice.

Johannes M. Hacker  
Chandler, AZ

# Intellectual Activism: In Defense of Microsoft

*The following letter was sent to members of the Senate Judiciary Committee, and printed in USA Today.*

Dear Senator :

This week, the Senate Judiciary Committee will convene hearings on the antitrust charges leveled against Microsoft and its chairman, Bill Gates.

These charges are an unjust persecution of a businessman whose only "crime" is running America's most successful company.

Ralph Nader and his pressure group, NetAction, have launched a propaganda campaign against Gates portraying him as a

megalomaniac bent on world conquest. This smear is designed to blur the distinction between economic and political power.

Economic power is based on production, innovation, and reason. Microsoft holds its market share because it consistently delivers innovative products at low prices. Consumers are free to buy them or walk away.

Political power is based on the use of force -- of which Nader and his ilk accuse Gates while simultaneously lobbying for government intervention in the software industry. There is a sharp difference between driving a hard bargain and holding a gun to a man's head. It is this difference that NetAction does not want you to see.

Microsoft is also accused of using brass knuckle techniques to force PC manufacturers to install Windows and Internet Explorer as a combined package. In fact, at least two of these companies, Compaq and Micron, have publicly contradicted this claim.

John Rose, a senior vice-president of Compaq told the Detroit News, "The feedback we've gotten from customers is that they like and want Internet Explorer with Windows 95."

Chairman and CEO Joe Daltoso of Micron didn't sound like a crime victim by saying in a press release, "Internet Explorer is our solution of choice."

He also said, "We do not understand why some reports have characterized this declaration-- which the Justice Department compelled us to provide-- as a complaint against Microsoft."

In other words, the Justice Department used subpoena power to coerce statements from PC manufacturers and then told the public that these were criminal complaints. Just who's wearing the brass knuckles, Bill Gates or Janet Reno?

I urge you to uphold Microsoft's property rights and vote against government intervention into its affairs. That would not only be an act of justice, but would prevent the incremental destruction of the entire software industry by

Re: John Brukner's response to the Chronicle February 17 editorial "Don't be fooled: Flag-burning amendment really mocks Old Glory."

I agree with Brukner that our flag is a symbol that unites us as a nation, but it is not the one thing that keeps us united.

Symbols only symbolize concepts, and the concept of individual rights is of primary importance when speaking of freedom. If we are to remain free as a people, the individual and his rights must be sovereign.

Sacrificing the individual to the common good of the country (as Brukner advocates) is a sure

path to serfdom.

For evidence, take a look at history. Millions of individuals have been sacrificed for the "common good" under various dictators.

When individual rights are abrogated, the only people left to decide what is good for the individual will be the power brokers.

Freedom and the right to speak flow from individual rights, and it is freedom that keeps us united as a country.

Dale Schwartz  
Houston Chronicle  
March 28, 1998



government bureaucracy and regulation: Nader's ultimate goal.

Johannes M. Hacker

\$ \$ \$

*The following letter was sent to members of the Senate Judiciary Committee.*

Dear Senator :

Microsoft is completely justified in selling its products on whatever terms it can get others to voluntarily agree to. It has every moral right to do so. It created these products through enormous effort and foresight. Its requirement that sellers provide Internet Explorer with its operating system is no more "sinister" than my requiring that when I sell my car the buyer take

the chrome hubcaps along with it. I own it, I have a right to make these conditions. So does Microsoft.

Government intervention on whatever pretext is immoral. The antitrust laws are just a set of nonobjective, ill-defined statutes that allow any businessman to be attacked for being sufficiently successful. It is precisely Microsoft's success that is being attacked by these hearings (and the threat of force they imply). I urge you to let Microsoft have the freedom that any American citizen has the right to. What do "life, liberty and the pursuit of happiness" mean if the government can dictate terms to anyone it claims is playing business hardball? Let ME choose if I want Microsoft's products, not the legislature or its appointed regulators!!

Warren S. Ross

\$ \$ \$

*The following letter was printed in the Houston Chronicle.*

Microsoft's dominance in the software industry was achieved through innovative achievements and superior marketing. To claim it stifles competition is to ignore both the nature of competition and historical facts regarding the computer industry. Not that long ago, International Business Machines and Digital Equipment dominated the main-frame computer industry and Apple was a dominant player in the personal-computer market.

Yet, each of these companies lost market share to competitive companies that were more innovative. Compaq Computer and Dell Computer-- which did not even exist 20 years ago-- are now industry leaders. And despite their dominating positions, IBM and Apple could not prevent upstarts from entering the market.

## From the Editor

For years the HOS Newsletter has published original articles, as well as information on events of interest to Objectivists in Houston. Unfortunately, the number of articles submitted has not always filled the available space. Often, I have written articles in an effort to maintain the quantity of articles published. This however, can be burdensome.

The HOS Executive Committee and myself have decided that the future format of the newsletter will be determined by members-- i.e., the size and scope of the newsletter will be determined by the number of articles submitted. Lacking sufficient articles to continue the present format, the newsletter will be reduced in size and focus on local events of interest, upcoming meetings, etc.

Members are encouraged to contact me with ideas for articles.

The president is looking at making a reduction on the restrictions on Cuba which would remove one of the last "fig-leaves" of respectability from President Clinton's foreign policy. We've been in the unique moral position of refusing to trade with this island dictatorship. Does Clinton now pretend that Cuba's human rights violations are no longer present?

Pete Jamison  
Houston Chronicle  
March 21, 1998

Microsoft can't either. The industry is extremely competitive and if Microsoft does not continue to innovate, it will suffer the same fate as DEC and Apple.

While Microsoft can make things more difficult for its competitors, it cannot prevent them from entering the market. Only the government can do so. And unlike Microsoft, the government can declare certain products illegal and penalize those who make such products with jail time and/or hefty fines. Unlike Microsoft, the government can criminalize innovation and use the threat of coercion to get its way.

Microsoft cannot throw its competitors into jail for reaching agreements with computer makers. It cannot fine its competitors if they develop superior products. Microsoft cannot tell its competitors what products they can produce.

Microsoft's dominance increases competition by challenging its competitors to develop better products. To claim otherwise is to enshrine mediocrity as an ideal.

J. Brian Phillips

## Objectivist Internet Sites

Houston Objectivism Society-- <http://pw1.netcom.com/~wsross/hos.html> Web site for the Houston Objectivism Society.

Philosophy: Who Needs It-- <http://www.pwni.com> Weekly radio program available over the Internet, hosted by Dr. Leonard Peikoff.

Rational Basis of Happiness-- <http://www.follow-reason.com> Live stream RealAudio radio program hosted by psychologist Dr. Ellen Kenner.

Ayn Rand Institute-- <http://www.aynrand.org> Web site for the Ayn Rand Institute.

Lyceum International-- <http://olumpus.net/lyceumintl> Offers courses on Objectivism, general philosophy, law, economics, history, and the arts.

Association of Objectivist Businessmen-- <http://www.nationweb.com/a/AOB/aob-1.html> The purpose of AOB is to promote Objectivism in the business community and encourage business support of the Ayn Rand Institute. Publishes a newsletter.

Second Renaissance Conferences-- <http://www.nationweb.com/src> Offers courses on Objectivism, general philosophy, law, economics, history, and the arts.

The Intellectual Activist-- <http://www.nationweb.com/t/TIA/tia-1.html> Magazine providing analysis of current issues.

Stop the Persecution of Microsoft-- <http://www.moral-defense.org> Devoted to providing a moral defense of Bill Gates and Microsoft. Includes an on-line petition.

## ANNOUNCEMENTS

\$ The October HOS meeting will be a presentation on Francis Bacon as philosopher and scientist by Anna Franco. This is a change from the schedule announced in the last newsletter.

\$ *Ayn Rand: A Sense of Life* will open in Houston on April 10 at the Greenway 3 Theatre in Greenway Plaza. The movie will also open in Dallas on April 24 and in Austin on June 19. The first week of a movie's life is critical. Audience attendance must be high to ensure it will be carried longer. Publicize this film in any way you can-- bring friends, family, etc. See it more than once!