4TH INTERNATIONAL ROMAN LAW MOOT COURT COMPETITION

In memoriam of Professors G. Maridakis and P. Zepos

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Imaret of Kavala & Forum Romanum Coloniae Augustae Iuliae Philippensis

Facts of the case

- 1. The facts of the case take place in Constantinople in 546 AD during the reign of the Emperor Justinian I (527-565 AD).
- 2. Endocia, aged 40 years old, is the most desired woman in the whole of Constantinople, renowned, not only for her material and spiritual wealth but also for her charm and beauty. She is tall with rich, long blonde hair. Her emerald eyes are said to have magnetized the devout Patriarch Menas. Rumour has it that even the Emperor himself had succumbed to her charm when he was still consul. Apparently, however, she had rejected Justinian's love telling him his "dowry" was not big enough. "What can I do with a man who will own half the old Empire when Emperor Justin dies?" she asked him, slightly raising her shoulders. "If you could conquer the West, I could say I am the wife of a Conqueror. But with things as they are...". Eventually Endocia got tired of the Emperor and his various gifts and she introduced him to a woman called Theodora.
- 3. Endocia's fame has spread across the Empire: from Constantinople to Alexandria and from Theodosiopolis to Ravenna. No man could resist her charm. This included the old and deaf artist who had been hired to make the mosaics in the church of Saint Vitale in Ravenna. At the far right end of the mosaic depicting the Empress with her entourage, one finds an elegant figure of a woman. She is the only woman not looking in the direction of the Empress. Clothed in a long white dress and adorned with a double line of pearls, each as big as walnuts, there is little doubt that this is Endocia.
- 4. There is not a single woman in the high society of Constantinople that does not wish to compete with *Eudocia*, albeit without success. Unlike her unfortunate rivals, *Eudocia* has read many parchments of many ancient scholars and orators in the library of Alexandria during her frequent trips to Egypt. She has travelled in the Eastern provinces of the Empire and has seen many lands that were unknown to most of the ladies of Constantinople. Not being able to match her in education or culture, some resorted to clothes and jewellery. They had no success.
- 5. *Eudocia* would buy the finest clothes from *Chanelius* and the best cosmetics from *Bulgarius* in Rome. She would make frequent trips to the major cities of the Empire in order to acquire the best products: soaps and *purpura* from Alexandria, precious

- stones and perfumes from Beirut, clothes and jewels from Rome. Faced with dilemmas, *Eudocia* would resolve them in her own way: she would buy both objects. In other words, she was the favourite client of all the merchants. *Cartierius*, the most famous jeweller of Constantinople used to say: "Other women go shopping. *Eudocia* reheats the economy."
- 6. There has been a great deal of speculation as to the source of *Eudocia's* wealth. According to the most probable story, *Eudocia* inherited a vast fortune from a distant uncle of her mother who died childless. Explanations aside, *Eudocia's* wealth is undisputed and, according to her, has saved her from the misfortunes of marriage.
- 7. Eudocia has bought a piece of land in the most expensive neighbourhood of Constantinople overlooking the Hippodrome, the Imperial Palace and the cathedral of Hagia Sophia. She hired *Isidoros* of Miletus and *Anthemius* of Tralles to design and construct a mansion on this plot of land. Eudocia took charge of decorating her new home, which she called *Repositum meum*. She embarked on a long trip to Alexandria where she purchased most of the things she needed to decorate her mansion. She created a big garden. On her way back from Egypt she stopped in Beirut to buy cedar trees. She also had a set of marble ponds and fountains installed, making her garden unique in the whole of Constantinople.
- 8. On her return to Constantinople she went to *Tiffus*, the luxury slaves merchant and bought the staff necessary to run her household: two Britons, one called *Mandubracius* to serve as a butler and the other called *Cassivellaunus* as a gardener; one Gaul, called *Vatelius*, to be her chef; and one Hibernian, called *Diarmait*, to serve the drinks. The rest of the slaves necessary to run her household were purchased from other slave merchants.
- 9. Eudocia leads a very glamorous life. As such, the gatherings at her mansion have quickly become a must for Constantinople's upper class. Cubicularii, protospatharioi, logothetai and other courtiers, members of the imperial administration, bankers and merchants, all compete for an invitation to Eudocia's banquets. Guests are entertained by famous musicians and singers, with everything at the behest of Eudocia.
- 10. Because of *Eudocia's* receptions *Vatelius* has acquired great fame for the delicacies he prepared and served at *Eudocia's* table. *Vatelius'* most popular dishes include his beetroot soup with crispy *pastirma* and his turbot fillet served on marinated aubergine. For these dishes, *Vatelius* has won a place in the *Index Michelini*. He also excels in patisserie. Even the Empress has asked *Eudocia* to have *Vatelius* prepare her favourite pastry with walnuts and syrup. *Vatelius'* fame is so great that a wealthy Alexandrian grain merchant, brother of the Prefect of Egypt and a devout Christian, *Lucullus*, has repeatedly asked *Eudocia* to sell *Vatelius* to him but to no avail.
- 11. Amongst *Eudocia's* entourage there is a young poet from Alexandria called *Constantinos. Eudocia* is very fond of him for his poetry, despite it being considered

by the established school of Constantinople to be subversive. *Eudocia*, by contrast, cannot stand the poets of Constantinople who write nothing but hymns to God and nature. She prefers poets who address the needs of the human soul and its deficiencies. *Eudocia* frequently asks *Constantinos* to recite a selection of his poems to her and her close friends. However, when she is entertaining bigger groups she prefers not to provoke them. Instead she asks *Fanfaras*, the famous poet of Constantinople, to recite his most popular poems, including "Mary had a little lamb", which provoke enthusiasm amongst the audience.

- 12. *Entaxias*, aged 45 years old, has been for several years *Endocia's* best friend and has accompanied her on several of her trips. Unlike *Endocia, Entaxias* would say that he has a good sense of the value of money. The truth is that he is easily shocked by the amount of money spent by her. He has attempted to keep *Endocia's* books in good order from time to time but without success. His middleclass fear of three or four digit sums prevails over his love for fiscal discipline and he has given up on the task.
- 13. *Eutaxias* has also a passion for antiquities. He is very learned in the history of Athens and Sparta. He takes great pride in the fact that he can recite entire passages from Herodotus and Thucydides. From time to time he likes to recite passages to *Eudocia's* guests during dinner. *Eudocia* actually prefers her dwarf African charlatans as entertainment but she is too fond of *Eutaxias* to prevent him from reciting at table.
- Eutaxias was equally fond of Eudocia and could not see an entire fortune vanish in 14. thin air before his eyes through banquets, feasts and parties, one after the other, where dozens of people ate and drank for free. The extravagance of Eudocia gave him a hard time making ends meet. From time to time, he would get so frustrated that he would march through the dining hall and shout at *Eudocia's* guests: "Money! Money! Give me the money!" Despite his disgust for lawyers and priests - for Eutaxias hated people who told other people what to do - Eutaxias thought he should hire a lawyer to see if some sort of compensation could be claimed against these people. He went to see Eunomias, a very famous commercial lawyer of Constantinople, to seek his advice. However, their discussion did not lead anywhere as in Eutaxias' view the fees Eunomias had asked were too high. His meeting with Eunomias finished with a row as Eunomias wanted to charge for the time he spent discussing with Eutaxias. Eutaxias paid the fee half-heartedly but told Eunomias as he was handing him over the coins: "May they be burning hot as charcoal in your hands. Spend it on lawyers and doctors!"
- 15. It was this shock to his middleclass principles that gave him a plan. He called his idea: 'The Economy Drive' and according to it, people could pay for their dinner, and if they wanted to stay at *Eudocia's* mansion, they could also pay for a room. He also came up with packages and deals of all kinds in order to satisfy potential clients with 'special financial needs' or 'enhanced financial abilities' as *Eutaxias* used to say.

- 16. To his surprise, it was not difficult to persuade *Eudocia* to implement his plan. She agreed to it, thinking that this would be an excellent way to limit the number of men that wanted to see her. So far she had used all kind of excuses to avoid seeing the many sorts of men who had wanted to flirt with her. The additional benefit of *Eutaxias*' idea was that the price the guests were to pay would rule out what *Eudocia* called the *plebs Romana*.
- 17. Their project was soon crowned with success. The finesse of decoration of *Eudocia's* mansion and gardens as well as *Vatelius'* cooking skills made a stay at *Eudocia's* mansion most memorable.
- 18. It was a few days before the feast of St. Constantine and Helen that *Eudocia* decided to travel to Alexandria in order to visit the tomb of Alexander the Great. She also took *Eutaxias* with her, as he wanted to consult some manuscripts in the famous library. The news that *Eudocia* had arrived in Alexandria permeated the circles of the city's ruling class quickly. As soon as he found out that *Eudocia* was in Alexandria, *Lucullus* sent *Anthimos*, his manservant, to present her with a small gift (a gold ring with an emerald he had bought in Beirut) and his compliments. *Eudocia* realised that he was actually asking for an audience. She accepted the ring as one should not insult people who make such kind gestures, but attempted to avoid him for a few days, thinking that he would be once again asking to buy *Vatelius*.
- 19. However, this time *Eudocia* was wrong. In fact, *Lucullus* wanted to become business partners. He was hoping that the business partnership would eventually evolve into a marriage partnership, allowing him to enjoy the services of *Vatelius* for a life time. He sent *Anthimos* to *Eudocia* again, this time with a pearl necklace and a message concerning his business plans. Although *Eudocia* could not care less about what he had to say, *Eutaxias* could not let such a business opportunity get away. The thought of turning the *Repositum meum* from a "barrel without a bottom" to a profitable business enterprise filled him with excitement. As he looked at *Lucullus*, his eyes fell on the burse hanging from his waist. *Eutaxias* weighted it with his eyes. It seemed so heavy. *Eutaxias* felt happy. He accepted the necklace on behalf of *Eudocia* and invited *Lucullus* to visit *Eudocia* at the *Repositum meum* in Constantinople, where, he said, "it would be easier to talk business".
- 20. When *Eudocia* found out what *Eutaxias* had done, she became furious but *Eutaxias* managed to convince her about the merit of listening to *Lucullus*' terms. *Lucullus* and *Eudocia* travelled back to Constantinople separately, as *Lucullus* was afraid of the sea and therefore went by land. This filled *Eudocia* with joy as she could not stand his boring company.
- 21. Upon his arrival in Constantinople, *Lucullus* was invited for dinner at the *Repositum meum*. He arrived on time with a big group of his servants, in an attempt to impress *Eudocia* with his undoubted wealth. *Eudocia* came down the big staircase, wearing a long green dress and two series of pearls. *Lucullus* was so impressed by the simplicity of her beauty that he stood for a while just staring at her, before his manservant reminded him to offer the gift he had brought for *Eudocia*. The manservant opened a small ivory box and *Lucullus* took out a pair of the most

beautiful emerald earrings ever seen. He offered them to *Eudocia* saying: "Please accept these earrings as a token of my appreciation for you and as evidence of my serious commitment in the business proposal that I have already made to you. And, of course, I am looking forward to the most exquisite cooking of our dear *Vatelius*!" *Eudocia* accepted the earrings and put them on immediately to honour her guest. They matched the colour of her eyes so well. For once, or at least for a couple of minutes, the fat Alexandrine businessman had succeeded in making her happy.

- 22. *Mandubracius*, *Eudocia's* Briton butler, showed the guests in the dining hall, where, according to *Eudocia's* instructions the young poet *Constantinos* was waiting to entertain the guests with some of his poems before the arrival of the first course.
- 23. As they all took their seats, *Constantinos* started recited an old poem of his entitled "Alexandrian Kings" in order to honour *Eudocia's* Alexandrian guest. Several other poems followed including some of his biggest successes: "Envoys from Alexandria", "Kaisarion" and "Young men of Sidon (AD 400)". Lucullus was pleased to hear poems about his native city, although all he could think of was *Vatelius'* cooking.
- 24. It was at that point that *Mandubracius* approached the table. He discretely whispered to *Eudocia's* ear, so as not to upset *Lucullus*: "Ma'am, it has transpired that *Vatelius* has committed suicide. It seems he panicked about the fact that the fish and seafood ordered for tonight's dinner has not arrived." *Eudocia* listened without showing any sign of surprise or stress. "If *Constantinos* can carry on reciting his poems, perhaps we could serve you a British dinner, which I believe you have never tried", *Mandubracius* continued. *Eudocia* nodded, without wondering whether there was a good reason why she had never heard of British cuisine before.
- 25. Eutaxias seized this opportunity to start talking about business. Lucullus explained how they could invest a respectable sum of about 3,000 solidi to turn the Repositum meum into the most luxurious hotel the Roman world had ever seen that would attract the elite of the elites for the quality of its services. Eutaxias could almost listen to sweet clinging sound of the 3,000 solidi falling in the chest. What a warm sentiment of joy filled him all the way up to his neck!
- 26. The discussion progressed quickly. Soon *Lucullus* pulled his napkin and wrote on it "3,000 *solidi* in two shares: 2,000 from *L* and 1,000 from *Eud* plus the work of hers and of *Eut*". *Eutaxias* crossed out the part after the 1,000 and suggested "(900 from *Eud* and 100 from *Eut*?)", as he wanted to be a partner in this interesting affair. Then came the difficult part. They had to talk about sharing the profits. *Eudocia* remained silent. She couldn't care less about profit. All she cared about was the artistic and cultural outcome of the investment. She did not want the final product to be accessible to any wealthy oligarch.

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Constantine P Cavafy, "Alexandrian Kings" (1912), "Kaisarion" (1918), "Young men of Sidon (AD 400)" available at http://www.cavafy.com/poems/list.asp?cat=1.

- 27. With regard to profits, *Lucullus* wrote on the napkin: "profits 50-50". *Eutaxias* disagreed saying that "*Eudocia* and I will also put our work in it. Not just our money". It was a fair point, but "how much more do you want?" asked *Lucullus*. *Eutaxias* made some further notes on the napkin: "*Eud* to work on the image and style of the final product and *Eut* to take care of accounting and finance". *Lucullus* then erased his suggestion for 50-50 and wrote in its place "40-60 after taxes?". *Lucullus* seemed pleased and said: "Perhaps. Let's have our lawyers look at it tomorrow". *Eutaxias* replied: "What do you need the bloody lawyers for? Our terms are fine. We just need to write this down and sign it."
- 28. At that moment, *Mandubracius* came in with the entrée and interrupted the negotiations.² He laid the plates on the table and introduced the chef's welcome dish: "Ma'am, Gentlemen, the chef is welcoming you with a British delicacy: marmite, with cheese on toast." *Lucullus* was excited. "The moment has finally come", he thought to himself. "I'm going to taste the food of the famous *Vatelius*." Little did he know that *Vatelius* had already been called to the table of the Lord.
- 29. The first bite was shocking for everybody. *Eudocia* gave her toast to her little dog who smelt it and then turned his head away in disgust. *Eutaxias* did not say a word or make any facial expression as he was chewing his toast for fear that it might jeopardize the deal. *Lucullus* felt like throwing up, which he preferred to do with a full rather than an empty stomach. However, thinking that the food was too sublime for his unrefined palate, he kept his mouth shut between mouthfuls.
- 30. Then *Mandubracius* served the starter and introduced it by saying: "Ma'am, Gentlemen, tonight's first course is a poached egg served on a thin layer of shredded sauerkraut, crowned with a potpourri of regional mushrooms, sautéed in Neapolitan olive oil". *Lucullus* heard this with disgust: egg with mushroom on cabbage and, as if this were not bad enough already, Italian olive oil. "What on earth do the Italians know about olive oil? Had it not been for the Greeks, all they would be making would be their thick white cheese", *Lucullus* thought to himself. The taste was not as bad as he thought. It was definitely preferable, when compared to the marmite, but he started wondering why people thought *Vatelius* such a great chef. *Lucullus* kept his thoughts to himself. He felt the same way about paintings. He never quite understood why everybody liked the paintings of that horrible Iberian painter called *Picasius*.
- 31. After the first course, *Eudocia* called upon *Constantinos* to recite a poem in order to lighten the atmosphere: "*Constantine*, please give us the pleasure of another of your great poems".
- 32. Constantinos coughed to clear his throat and said:

"Julian Seeing Contempt.

'Observing, then, that there is great contempt for the gods among us' – he says in his solemn way.

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For a view of the state of negotiations as depicted on the napkin see Annex I.

Contempt. But what did he expect?

Let him organize religion as much as he liked,
write to the High Priest of Galatia as much as he liked,
or to others of his kind, inciting them, giving instructions.
His friends weren't Christians; that much was certain.
But even so they couldn't play
as he could (brought up a Christian)
with a new religious system,
ludicrous in both theory and application.
They were, after all, Greeks. Nothing in excess, Augustus."³

- 33. Eudocia smiled and applauded, saying: "Well done Constantine! Wonderful! Tell us a nother one please! Not a historic one. Enough with ancient history. Tell us a poem about the human being and its sentiments." Who could ever resist Eudocia? Constantinos obeyed, but Lucullus was already very unhappy about all the references to the pagan Emperor Julian who had been proclaimed an apostate by the Holy Church.
- 34. Whilst Lucullus was kept busy with thinking about the irritating poem, his slave Anthimos had other problems: an awkward feeling had begun to creep over Anthimos deep down in his stomach. Although the création of egg and mushrooms had been less disgusting than the amuse-gueule, Anthimos had a sense that the feeling in his stomach had grown within him ever since the first course had been served. Although, having a very weak stomach, Anthimos was accustomed to enduring gastric unease, but most of the time it was the feeling of having eaten too much of delicious food when dining with his master. However, this time he was not certain how long he could hold onto his stomach's contents.
- 35. At that point though, *Mandubracius* announced the arrival of the main course and *Eudocia's* poetry request had to wait as *Mandubracius* introduced the main course: roast lamb with mint sauce served with a pint of a warm bitter. *Lucullus* had just one bite and laid his fork down. "My God" he exclaimed. "This is terrible. It is like eating toothpaste, with lamb flavour!"
- 36. The end of the surprises for *Lucullus* had not yet come. "Business is business" he thought and tried to overcome his disappointment about *Vatelius*' skills. The final strike came from *Constantinos* who adhered to the instruction of his patron lady and started reciting his latest poem entitled "In the taverns":

"I wallow in the taverns and brothels of Beirut.

I didn't want to stay
in Alexandria. Tamides left me;
he went off with the Prefect's son to earn himself
a villa on the Nile, a mansion in the city.

It wouldn't have been right for me to stay in Alexandria.
I wallow in the taverns and brothels of Beirut.

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³ CP Cavafy, "Julian Seeing Contempt" (1923) at http://www.cavafy.com/poems/list.asp?cat=1.

I live a vile life, devoted to cheap debauchery. The one thing that saves me, like durable beauty, like perfume that goes on clinging to my flesh, is this: Tamides, most exquisite of young men, was mine for two years, and mine not for a house or a villa on the Nile."⁴

- 37. Poor *Constantinos* had no idea of the close relationship of blood between *Lucullus* and the Prefect of Egypt. At the hear of these allegations about *Tamides*, *Lucullus* stood up in rage. "This is an outrage. How dare you insult me and my family in this manner?" he shouted as he stroke a blow on *Constantinos*. Then he turned to *Eudocia* and *Eutaxias* and said: "I have never been humiliated like this before in my life! I cannot believe I came all the way from Alexandria to be given such horrible food and to be insulted in this manner."
- 38. "Do not raise the tone of your voice with me, Lucullus! Calm down or get out of here" said Eudocia in her usual fashion. Lucullus would not be the first to be thrown out of the Repositum meum like rubbish from the window of a Roman insula. Lucullus turned red in rage, making a nice contrast to Anthimos who was pale like a sheet. He took the napkin in his hands and tore it in pieces. Eutaxias nearly choked as he watched the agreement being torn from top to bottom like the curtain of the Temple of Sion. He kneeled over the torn in pieces in tears and lifted them up saying: "Oh no! My contract..."
- 39. Lucullus stormed from the dining hall and went back to his lodgings. The next day he learnt from his servants that Vatelius had actually committed suicide and that he had been served the dinner that had been prepared by Cassivellaunus, Eudocia's gardener. He thought to himself: "all this way from Alexandria and all these expenses, just for the dinner of a Briton." He sent Anthimos, who still felt unwell, to claim a reimbursement of the expenses of his trip but his request was refused from Eutaxias who said Lucullus had no such right to ask for reimbursement. The following day, Eudocia and Eutaxias were informed that Lucullus had brought a case against them in court to have all the expenses he had incurred in the negotiation of this agreement reimbursed to him.
- 40. Before undertaking the travel back to Alexandria, *Anthimos*, at last, fell so seriously ill that he had to stay in bed in Constantinople with his stomach upset. *Anthimos* experienced diarrhea and vomiting and had a strong feeling of anxiety and impending doom. Upon recommendation, *Lucullus* consulted one of the most learned doctors of Constantinople, the famous *Celsulus*, who diagnosed *Anthimos* with a severe food poisoning due to the consumption of the notorious *amanita phalloides*. On confrontation with this, *Cassivellaunus a*nd *Mandubracius* had to admit that they had not known all the mushrooms too well which they had found in the kitchen's pantry. "But" *Mandubracius* tried to justify himself "how could one tell that for sure without the captain on board? After all, nobody else seems to have

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⁴ CP Cavafy, "In the taverns" (1926) available at http://www.cavafy.com/poems/list.asp?cat=1.

- had problems with the mushrooms", he added. Apparently, the others had been more fortunate with their composition of the potpourri.
- 41. In the hope of having his slave restored and the looming death prevented, *Lucullus* hired a special "suite for the sick" in a luxurious spa called *Hospitium Sanctae Annae*. Unfortunately, over the following two days, *Anthimos* did not feel better. From time to time his stomach was aching so dreadfully that he fell into a kind of delirium. One lonely Sunday morning, when *Lucullus* had gone to Church, *Anthimos* was tormented by such terrible pain that he could only fling himself around in bed from one side to the other without being able to keep a clear mind. Suddenly, in his misery, he noticed a small phial shining in the morning light on a shelf besides the window. In his ghost-like reverie, he reeled towards the shelf and reached out for the phial. He lifted it and glanced at it with a beatific look as if this was the solution of all his problems. He closed his eyes and felt surrounded by a light like the moonbeam in a midnight woodland. With a sense of elation, he put the phial to his lips and drank it at one draught.
- 42. When Lucullus came back to the spa from the morning service, he found Anthimos peacefully lying in a sleep he would never awake from again. Horrified, Lucullus recognised the tiny flask lying next to Anthimos' right hand, the phial that bore the Greek inscription "Narkotikon. Do not drink!". Lucullus felt very depressed about the loss of his faithful servant. After a while, his sadness turned into anger and he hastened to file a claim against Eudocia because of Anthimos' death which, in Lucullus' view, was clearly a consequence of the bad cooking they had been served by Eudocia's slaves, Cassivellaunus and Mandubracius. Of course, Eudocia was equally clear about responsibility, and replied: "I am very sorry for Anthimos. But I do not know which of your claims I should find more ridiculous! I am certainly not going to pay for the suicide of others!" "Suicide?" Lucullus snarled back "Never! Anthimos was such a jolly fellow that he would not even spend a thought on that!"
- 43. The claims brought by Lucullus are the following: (a) a condictio causa data causa non secuta against Eudocia and Eutaxias for the reimbursement of 300 solidi which would cover (i) his travel expenses from Alexandria to Constantinople and then back to Alexandria; (ii) his accommodation expenses in Constantinople upon presentation of the relevant receipts; and (iii) the return of the gold ring, the necklace and the emerald earrings he offered to Eudocia during the course of the negotiations; (b) an actio in factum ad exemplum legis Aquiliae for reimbursement of the medical costs incurred for the treatment of Anthimos' infirmity (80 solidi) and for the value of Anthimos (120 solidi).
- 44. Lucullus has asserted the value of Anthimos with 120 solidi due to his long-standing faithful service and his proved managing skills as a personal manservant. The average market-price for a slave of Anthimos' age (42), provenance (Asia minor), education (none) and physical condition (healthy, but a weak stomach and bad teeth) would be 60 solidi.

ANNEX I

Sketch of the napkin's state as restored from the pieces

3,000 solidi in two shares: 2,000 from L and 1,000 from Eud plus the work of hers and of Eut

900 from Eud and 100 from Eut?

Profits: 50 - 50

Eud to work on the image and style of the final product and *Eut* to take care of accounting and finance

40 - 60 after taxes?