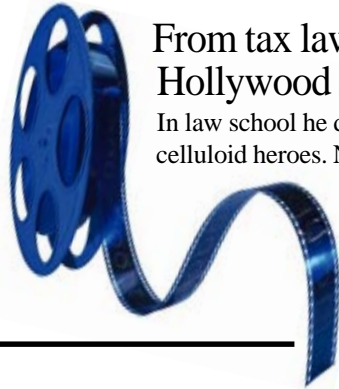




### Punish the deserving

But resist the urge to send kids to prison for life when they have no way of knowing any better. Our Frank Cwiklinski takes aim at this needless, but growing, prosecutorial trend. **OPINION, PAGE 8**

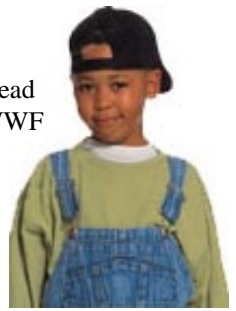


### From tax lawyer to rising Hollywood screenwriter

In law school he dreamed of celluloid heroes. Now Bill Flannigan '93 is writing a different kind of script. **CAREER, PAGE 6**

### Betcha never knew

During recess from trial, judges head into their chambers and watch "WWF Smackdown." Others eat Tombstone pizzas. So say our panel of experts — fifth-graders who wrote the winning essays in our annual contest. **SIDEBAR, PAGE 10**



# THE GAVEL

VOLUME 49, ISSUE 5 ■ APRIL 2001

THE STUDENT NEWSPAPER AT CLEVELAND-MARSHALL COLLEGE OF LAW

## Housing clinic students cut teeth on novel Ohio loan case

By Robert Caldwell  
CONTRIBUTING WRITER

Students enrolled in the Cleveland-Marshall Fair Housing Clinic are getting a first-hand look at one of the few cases in the country and the first of its kind in Ohio against "predatory lenders."

Students enrolled in the Fair Housing Clinic work at the law offices of Housing Advocates Inc., a Cleveland-based nonprofit fair housing organization. HAI is currently representing three clients in a lawsuit against Midwest National Mortgage Co. in federal court. The basis for the suit is predatory lending.

Clinical students have played an important role in the lawsuit from the filing of the suit to the current settlement hearings. Students have worked on several different aspects of the Midwest case including discovery, research, briefs and motions. Professor Stephen R. Lazarus and  
See **HOUSING**, page 6



ED PEKAREK—GAVEL  
Former U.S. Rep. and current Ohio Rep. Mary Rose Oakar comments on the ups and downs of federal campaign finance at the forum.

## Lawmakers, Jerry draw a crowd

GAVEL STAFF

Amid rumors that the fabled, often notorious talk show host is considering running for public office, Jerry Springer flew to Cleveland to host the student-run legislative forum, held here last week.

The March 30 event, designed for leaders to discuss

careers in public service, drew such notable politicians as U.S. Rep. Stephanie Tubbs Jones, County Commissioner Tim McCormack and Cleveland City Councilman Bill Patmon.

Turn to page 4 for more on the event by contributing writer Mat Rieger.

## Unfair billing policy to end

### Overbilling of joint degree students to cease; refunds possible, say deans

By Ed Pekarek  
BUSINESS EDITOR

One PeopleSoft problem that Cleveland State administrators have not openly decried has been the tuition overbilling of joint degree law students. Cleveland-Marshall students enrolled in the public administration, business and urban planning programs have experienced an unpleasant surprise in their bursar's statements — separate tuition billing for each college.

PeopleSoft apparently identifies these students as part-time in two colleges instead of full-time joint degree candidates, charging a per-credit-hour, part-time tuition rate. The result of this policy has been joint degree tuitions that exceed the stated maximum tuition for either college.

Often students have not discovered the anomaly until after they have enrolled in classes. Students then face the risk of their account being "flagged" while they attempt to unwind the red tape.

"I was billed an extra \$500 to take one MPA class last semester," said 2L Andrea Liberty. "That might not seem like much, but it's still one month's rent. What upsets me most is the complete lack of disclosure."

According to C-M Dean Steven Steinglass, the bursar's practice will soon change. "We now have it from authoritative sources that an agreement in principle has been reached to cease the practice of overbilling joint degree students who take classes in two colleges concurrently," Steinglass

See **TUITION**, page 4



By ROGER BUNDY

### Avoid parking problems

**Best advice:** Get your parking hang-tag through the mail. A parking application is mailed to all students prior to the beginning of each semester. It looks like junk mail, so don't throw it out by accident. This is the easiest way to order your parking tag.

**Next-best advice:** If you fail to follow that good advice, all hope is not lost. You can still get your hang-tag at the law school. For the past two years, a representative of the parking department has been seen lurking about the student lounge selling parking passes during the first week or so of each semester.

**Worst advice:** If you fail to follow all the good advice above, then you must get your parking pass at the parking office located in a mysterious place called the Annex, which no one can explain how to get to. Furthermore, if you get stuck with this option you'll have to deal with non-law school personnel on their turf. Any seasoned law student will tell you that you want to avoid this at all costs.

## Klein steps down from legal writing position

By Frank Scialdone  
MANAGING EDITOR

When Deborah J. Klein began as director of Cleveland-Marshall's legal writing program 20 years ago, there was no program to direct. Now, there is an established curriculum that she believes is at the forefront of legal education.

After more than 20 years as director of the Legal Writing, Research and Advocacy Program, Klein will resign June 30 when her administrative contract expires. She will remain an instructor in the program. Klein has headed the department since 1980 and was formally recognized as its director in 1983.

"I want to teach and dedicate more time to my students," said Klein. Without the administrative demands of the director position, she said she would be able to spend more time with her family and pur-

After 20 years, director will return to instructing; in-house replacement to be appointed by June 30

sue legal-related research interests.

With interviewing beginning in mid-April, Klein expects a new director to be in place before her June 30 departure. The new director will be one of the current faculty members in the legal writing program. A hiring committee that consists of Klein, Associate Dean Jack Guttenberg, professor James Wilson and 3L Moira Arsenault will make the hiring decision.

While there have been many changes from when Klein began heading the program 20 years ago, the most significant change is that there is a program.

"We were one of the first law

schools in the country to have a full program," she said. "C-M has been at the forefront of legal writing instruction."

It has been only in the last five or six years that legal writing programs have become common across the country, according to Klein.

Klein said she is proud of the development of the program here and is generally in favor of the recent changes that have taken place, such as the addition of another semester of "first-year" legal writing. She emphasized the need to continue to train students in the practical aspects of writing and advocacy to prepare them for their future as lawyers.

"This is a great law school," Klein said. "Students can get as good an education here as anywhere in the country."



## Student groups add to fabric of our learning

By Steven H. Steinglass

I would like to thank the creative and energetic students whose work beyond the classroom does so much to enrich their education and the lives of their teachers and fellow students.



### The Dean's Column

Last week, for example, the *Gavel*, the Asian Pacific Islander Law Student Association and the Student Public Interest Law Organization worked studiously to present "The Public Interest: Who Protects It?," a forum debating the factors advancing or impeding the legislative process, and they successfully assembled a roster of outstanding public servants. And, as if that weren't enough, they were able to persuade talk-show personality Jerry Springer to take part in a panel discussion on careers in public service.

The Black Law Students' Association has also been active in sensitizing the law school community to racial issues. Just last month BLSA invited us to hear two eloquent African American alumnae, Judges Jean Murrell Capers '45 and Patricia A. Blackmon '75, speak on succeeding in the profession. Later in the month they organized "Race Matters: Does It?" with Judge Nancy M. Russo '81 and alumni lawyers Don Butler, Jaime Serrat and Vicki Ward.

Who will ever forget the APILSA and SPILO students and the excitement they generated when last November they brought Presidential candidate Ralph Nader to the CSU campus? Our students' interests are not exclusively academic or societal, however, and this winter the *Gavel*, SPILO, APILSA, Hispanic Law Student Association, Student Bar Association and Women's Law Student Association collaborated in purchasing a three-dimensional work by Hector Vega, which celebrates Cleveland's recreational and cultural riches.

Our successful moot court teams, traveling the country in competition after competition, also bring distinction to the law school, while the work of the editors of the *Cleveland State Law Review* and the *Journal of Law and Health* announces to the world that we are a school to be reckoned with!

These are only a few of the ways our students are helping us to educate the state and the country's finest attorneys, judges, public servants and business persons. Your teachers and administrators thank you. We have learned together.

*Steinglass is dean of C-M.*

# Even Stephen's vaunted past

**Note:** Appearing below is the second of our series of articles on professor Stephen Werber's planned retirement as moot court adviser. Werber will officially step down April 20.

By Kevin Butler

GAVEL EDITOR

After 20 years of coaching Cleveland-Marshall's moot court teams to considerable success in competitions across the country, professor Stephen Werber has had plenty of time to generate rivalries with advisers from other schools. But with the cloud of his retirement looming, his counterparts offered only glowing praise about Werber's impact on the program, demonstrating he has earned little else but their admiration.

In addition to that admiration, Werber's peers express relief that he is stepping down. Gerald Treece, who advises one of the nation's strongest moot court programs at South Texas College of Law in Houston, said Werber's C-M team was one of the few that occasionally outmatched his own.

"I will miss him about as much as General Eisenhower missed finding Field Marshal Rommel on the beaches of Normandy," Treece said.

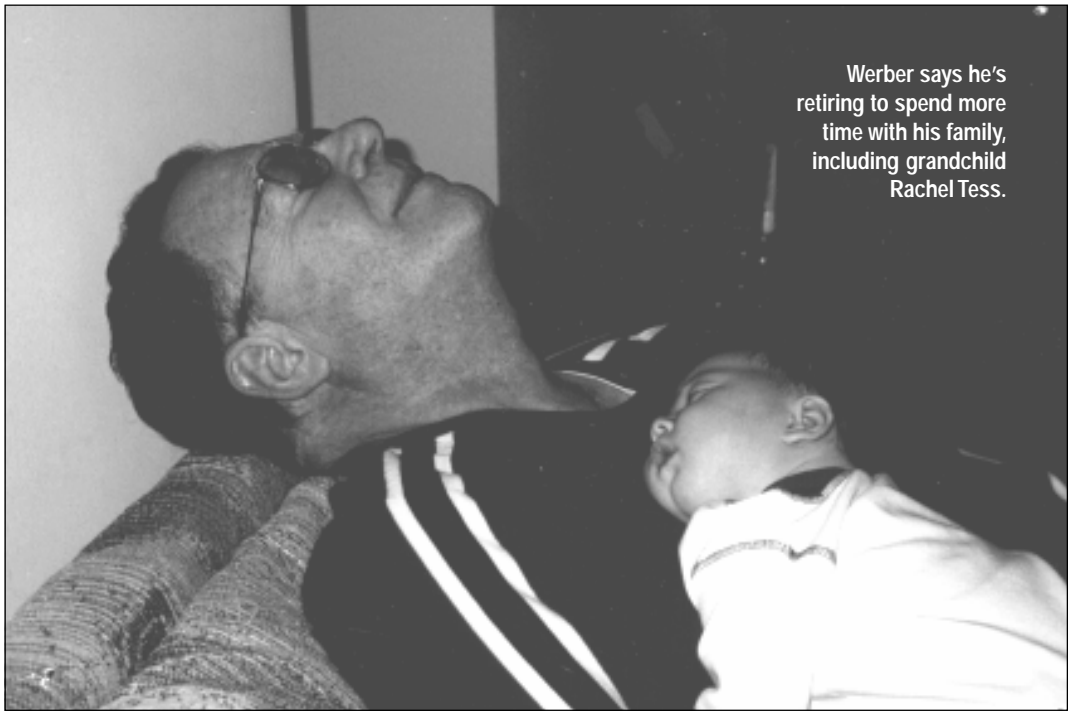
One of Werber's early mentors was Case Western Reserve professor Melvyn R. Durchslag, who advised the Case Western moot court program until the mid-1980s, about five years after Werber began advising at C-M.



### Rival

**Jeffrey Ferriell**  
Capital Law School moot court adviser

"Steve has always been extraordinarily cordial to students on other schools' teams, and frequently takes the time not just to make their acquaintance but to offer them encouragement and luck in their efforts."



Werber says he's retiring to spend more time with his family, including grandchild Rachel Tess.

COURTESY S. WERBER

## Werber's moot court opponents shed light on his reputation and his legacy

ized how much professor Aldrich had done with moot court until we tried to replace her," Glasrud said. "When I would go to a competition, it would make me jealous to see how well advisers from other schools meshed with their teams."

Enter Werber, who agreed to take over as full-time adviser and began to shape things up.

"My initial efforts were directed toward organization and I had the board enact its first set of bylaws," Werber explained. "My next effort was to instill discipline into the program in an effort to

### A style of his own

Werber says he maximizes his students' training by building confidence, professionalism and teamwork, while demanding "without mercy" that students hone their individual talents.

He is not without special teaching tools. The most famous is his "Bullshit" stamp, which he plants onto less meritorious briefs submitted by students. He often creeps up behind students during practice rounds and shouts, "No, answer the question!" when they are not speaking directly on point.



### Friend

**Ralph Ruebner**  
John Marshall privacy tournament coordinator

"His coaching at the privacy competition is legendary. He was always there with his team. One could see the satisfaction of success and the sadness of defeat on his face."



### Mentor

**Melvyn Durchslag**  
Former CWRU moot court adviser

"Steve brought CSU from a team we wanted to face (because we won) to one that no one in the region looked forward to coming up against. What he did with the CSU teams over the years is really quite remarkable."

"Steve brought CSU from a team we wanted to face (because we won) to one that no one in the region looked forward to coming up against," he explained.

### Fast out of the gates

Werber inherited a program that was founded in 1981 after its previous adviser, Ann Aldrich, left C-M for a judicial appointment to the U.S. District Court in Cleveland.

While an interim adviser was sought, moot court Chairman Charlie Glasrud told the *Gavel* that year that the group badly needed a replacement for Aldrich.

"I do not think anyone real-

move it from just another résumé item to a true learning experience that would also enhance our ability to compete."

And compete they have — in more than 425 competition rounds since Werber took over in 1981. To date, he has coached approximately 400 students.

"He brought a standard of excellence to CSU's program that didn't exist before he arrived on the scene," Durchslag said. "Anyone who has advised a moot court team can attest that the most difficult part is establishing consistency when so much depends on the skills of the team members."

After practice rounds, he's also known to keep students in the room for hours of instruction.

Finally, he reminds his team before competitions of the four most important rules: Relax, stick to the game plan, have fun — and one other rule. "The fourth is a more streetwise statement of what I want them to do vis-à-vis the opposing team," Werber explains.

Werber has a reputation for coaching vicariously through his team. At the annual privacy tournament at John Marshall Law School in Chicago, organizer Ralph Ruebner noted Werber's role.

"He was always there with his team. One could see the satisfac-

tion of success and the sadness of defeat on his face," Ruebner said. "He really enjoyed the competitive nature of moot court and had admiration and respect for, in his words, 'my kids.'"

### From mud to marble

Werber shared statistics of his teams' success over the years with the *Gavel*. The most notable:

- Werber has assembled and coached more than 130 teams in approximately 100 competitions.

- Fourteen C-M teams won first place, 17 have been finalists and 23 have been semifinalists.

- C-M has won best brief awards 31 times and 11 members have been named best advocate.

- Since 1997 C-M has reached the final round of tournaments 62 percent of the time.

"What Steve did with the CSU teams over the years is really quite remarkable, far more than I think I was able to do here," Case Western's Durchslag said. "I am sure that there are some institutional reasons for that, but most of the credit goes to Steve."

Larry Teply, a Creighton University law professor who coordinates the ABA's National Appellate Advocacy Competition, said Werber has brought acclaim to C-M's program. "He has helped establish an excellent reputation for C-M's moot court program."

Werber is planning to retire April 20 and will help the school recruit and train a new adviser.

"Twenty years is a long time and I am tired. I want more time for my family, to better prepare for my classes at the law school, to complete work on a Master's of Judaic Studies and to write," he explained.

Although school officials may have to scramble to find a suitable replacement, not everyone will bemoan his retirement. Said Durchslag: "Being from Case Western, I suppose I should be happy that Steve is finally giving it up. We may now do better."

# Summer 2000 Bar Exam Pass Rate (First-Time Takers)

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# TV's Springer, Rep. Tubbs Jones square off at forum

Local, regional and national pols gather to discuss campaign finance and life in the public service

By Matthew Rieger

CONTRIBUTING WRITER

Controversial talk show host and former Cincinnati mayor Jerry Springer as well as U.S. Congresswoman Stephanie Tubbs Jones highlighted Cleveland-Marshall's first legislative forum on protecting the public interest.

The student-organized event brought together political and community leaders to discuss timely issues as well as their careers in public service in three different panels. The forum was held March 30 in the moot court room.

While many public figures participated in the program, Tubbs Jones and Springer were the most recognized. Springer was quick to address his tainted image by beginning his remarks with a preemptive, "I'm sorry" for the criticisms he presumed would come.

The panel discussion on careers in public service featured a heated discussion on the media's role in the private and public affairs of elected officials. Springer and Tubbs Jones proposed differing views with respect to this issue. The U.S. Congresswoman took exception to Springer's sug-



TV talk show host Jerry Springer (above), U.S. Rep. Stephanie Tubbs Jones and 2L Gordon Short (both right) each spoke at the recent forum.

gestion that public figures not focus their interests on what is said about them in the media. Tubbs Jones, who said she and her family have suffered as a result of her public profile, responded, "Jerry, what you said is a lot of crap."

C-M student and Mentor-on-the-Lake Mayor John Rodgers added some levity to the situation, pointing out the potential negativity that one might endure when choosing a career in public service. After Rodgers shared a story about a woman who falsely claimed to be his mistress, Springer jokingly offered him an invitation to appear on an upcoming episode of "The Jerry Springer Show."

Other government and community leaders who participated in the three panel discussions were former and present state legislators Mary Boyle, Grace Drake, Eric



WILLIAM RIETER—CSU (2)

Fingerhut, Peter Lawson Jones, Mary Rose Oakar and Patrick Sweeney; local officials and candidates Brian Hodous, William Patmon and Tim McCormack; community leaders Lisa Chamberlain, Cheryl King-Benford, Roy Ray and Albert Matthews; C-M professor Linda Ammons and students Michael Cheselka, Gordon Short and Tracy Turoff.

While the first panel discussion dealt mainly with the philosophies of those who have chosen careers in public service, the latter two focused on more substantive legislative issues. The first of these concentrated on the tension between public and private interests in serving as a legislator or policymaker.

The discussion quickly turned toward campaign finance, and particularly the merits of the McCain-Feingold Bill. The panel further

addressed issues including the separation of church and state, the imposition of a politician's moral beliefs in making political decisions and the extent that special interest groups influence politicians.

On the latter issue, Cleveland City Council Majority Whip William Patmon said although a public servant's first obligation is to his constituency, he has been partially influenced by special interest groups. Patmon further suggested that it would be difficult for him to imagine any politician not being similarly influenced despite former Ohio Sen. Grace Drake's comments to the contrary.

The final meeting of the day focused on campaign finance reform. Ohio Sen. Eric Fingerhut articulated the concern in this area. "Campaign finance is about keeping the monetary influence out of

politics and public policy," he said.

Mary Boyle, Ohio's first female U.S. senatorial candidate, said that campaign finance reform was also a critical issue to achieve gender equality.

"Campaign finance will help women," Boyle said. "It will allow women to enter into politics despite men having control over traditional financial interests."

As the day concluded, Peter Lawson Jones from the Ohio House of Representatives linked campaign finance to political activism. "If everyone cared about politics the way that the group of students present [in the audience] do and everyone paid close attention to the issues debated, then campaign finance reform would be of little significance."

3L Ann Vaughn, a *Gavel* staffer and president of the Asian Pacific Islander Law Students Association, 2L Ed Pekarek, a *Gavel* editor, and 2L Jennifer Lukas Jackson, president of SPILO, primarily organized the forum. C-M and Cleveland State organizations and local public interest groups helped produce the event.

## Next issue

The *Gavel's* *Tricia Hurst* was granted an exclusive interview with Jerry Springer after the forum. Read what the flamboyant talk show host said in our *May* issue.

## TUITION: Refunds sought

Continued from page 1 —  
said at a recent dean's forum.

The next question is whether students subjected to the controversial billing policy will receive refunds for over-payments. Communication between faculty, C-M deans and CSU administrators has been ongoing for months in an attempt to rectify the disparate fees.

A series of e-mails obtained by the *Gavel* confirms that Dean Steinglass has been working to correct the policy. In a Feb. 17 memo to senior CSU officials, Steinglass wrote: "None of the colleges whose students are affected were notified of this decision, and the policy is not contained in any of the recruiting materials that the colleges used. Nor can we find anyplace where this policy is committed to writing. Thus, our students may be accurate when they describe this as 'bait and switch.'"

CSU's finance Vice President Jack Boyle III replied to Steinglass on March 8. "If it's a few, we probably could handle [the refunds] manually for now. I believe that these students do get both a JD and an MBA, so there is a rationale for charging a little more."

Steinglass responded the same day. "Continuing this policy (which I believe was adopted solely as a result of PeopleSoft and without any discussion with the colleges) would drive current students out of the programs and pre-

vent them from having enough of a critical mass to permit us to recruit new, high quality students."

The proposed agreement concludes an effort begun over a year ago by professor Alan Weinstein, the JD/MPA program advisor.

"After sending a number of polite e-mails and phone calls last year, I took the complete lack of a response to suggest that the issue wasn't going anywhere," Weinstein said.

The administrative shake-up at CSU has not helped to expedite matters, Weinstein noted. "With the majority of top CSU officials being either interims or lame ducks, it's not surprising that reaching a solution has taken so long."

MPA candidate and 3L Emily Hornyak is one of several students concerned about not being refunded. "Over the years I've probably overpaid thousands in tuition that I'll never see again," she said.

The tentative agreement promises to eradicate future overbilling, but the issue of refunds due to students like Hornyak still exists.

"We have to clear one hurdle at a time and it appears that we have now cleared the first," Associate Dean Jack Guttenberg said. "The university is probably not going to unravel prior years' budgets, but we remain optimistic that overpayments within fiscal year 2001 will be fully refunded to affected students."

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## Assess your strengths before deciding on law

By Karin Mika

*Q: I study three times harder than all my peers and spend 10 times as long on all my writing assignments only to get mediocre grades while the "slackers" always seem to do better. What am I doing wrong?*

**Legal Writing** | A: You've hit upon the harshest of all realities — life isn't always fair, and work put in does not always yield commensurate results. You're probably not doing anything wrong. The fact is that some people are more naturally predisposed to a discipline than others. This sometimes stems from the person's background and sometimes it's just natural ability. (Which of us could become Mozart merely by practicing?)

Without advocating that everyone who is now frustrated drop out of law school, I will say that each person must figure out what he or she is good at and see how this whole legal thing fits into that picture. I've known several students who discovered in law school that this is exactly what they did not want to do for a living. One went on to culinary school and is now a chef. Two others went on to careers involving sailing and are deliriously happy. (The valedictorian from my own law school class left a prestigious law firm to become a personal trainer.) Each was a successful student, but all of them discovered that the work put in wasn't equating with the requisite amount of success or satisfaction.

From a personal perspective, I learned early on that I had no mathematical acumen whatsoever. While I could do well in a math course with an extraordinary amount of effort, I retained no knowledge of what I had learned the day after the course was done. This went on through six years of "advanced" math. One of my most amazing claims to fame is that when I took college placement tests, I tested out of three years of English curriculum, but tested into seventh grade math — not just remedial math, but three courses below college remedial math. It was a clear signal that if I were to go into a science field requiring computations of any sort, I would be far from the top of the heap.

That being said, my advice is, if this is what you want, keep on working hard and doing what you're doing. However, be realistic — there will always be those who seem to (and do) "get it" with relative ease. Your mindset should be to applaud them for their good fortune, and focus on what you can do with your own tools.

*Mika is the assistant director of legal writing at C-M.*

## I'm a screenwriter by nature

**I**'M A SCREENWRITER. YOU HAVE no idea how long it took me to realize this ultimate truth. It also took me years just to get comfortable saying it. At first I just couldn't say it without adding that I'm also a lawyer — like I needed my law degree to give me legitimacy.

After finishing my first script I still didn't feel like I was a screenwriter. So I wrote another. And that didn't sell either. So I wrote another and decided I'd just make it into a movie myself. However, movies are expensive to make, so my two-hour film became a 15-minute short.

Screenwriting is the most misunderstood and frustrating kind of literary endeavor. If you write a poem, you're a poet. People can read your book of poetry. It is the same with a novel, short story or magazine article. Even a legal brief or memo drafted for that crusty old partner is a finished product. You write it and, except for the tweaking by an anal editor, it's complete.

Not so with screenwriting. A screenplay is something entirely different. It's a blueprint, a starting point. A good script is a marketing device that gets young Hollywood producers dreaming of \$50 million opening weekend grosses. It's a star vehicle for a television actor. It's a fantasy world an art director drools over. It's a world that an aspiring or successful director starts to shape when they agree to take the words you slaved over and form something completely different.

At Cleveland-Marshall I was a good but not exceptional student. I don't even know where I finished in my class but was happy to have *cum laude* added to my diploma. If I had listened to my heart instead of being motivated by fear, I would have made the choice to be a writer earlier. My biggest fear was that if I dropped out of law school I would be seen as a failure and a disappointment to my family.

Instead, I blindly pursued some vague vision of a future where I'd be doing deals for American corporations in China. My undergraduate degree was in Asian studies, and I spent about five years in Asia and speak Chi-

After earning two law degrees, my legal career took a back seat to writing for the Big Screen.

By Bill Flannigan

nese and Japanese. I would often discuss their hiring needs. I received a total of three standard rejection letters. The other firms? They didn't even respond. It was at that point about six years ago that I wondered what the hell I was doing with my life. Why was I struggling so hard to be hired by some big firm? Why did I want to get a master of tax degree? I didn't even like doing my own taxes.

I examined my life. I finally realized that I was pursuing a law career to become financially well off, so I could then quit to pursue my dream of becoming a writer. I felt like a rat in a wheel.

Along my educational journey, many counselors had poured water on my dream of becoming a writer that I put it out of my mind for years. And now I'm up to my neck in it. That's OK because I've become a really good swimmer. I may die a penniless screenwriter and an unknown filmmaker, but that is better than a lawyer floating in a million-dollar pool of tax money.

I have no plan B, no fallback position and nowhere to go if this doesn't turn out.

I have no advice other than this: Do what makes you happy. If being a lawyer makes you happy, then do it. If running an animal shelter turns you on, then do that. The representation of a client is too important to be undertaken just for money. Whatever it is that gets your

blood going, then that is what you are supposed to be doing. Reject that truth and you will become a stinking fat cat, a miserable slob of a lawyer who'll end up being great material for guys like me. Embrace the fear of failing at what you love and you can't lose.

■ **About Bill Flannigan:** Flannigan is a 1993 graduate of C-M. In 2000 he completed a short film, "Jimmy Ritz," about a criminal defense lawyer who gets involved with his underworld clients. The film won several prestigious awards, including best short film at the Ohio Independent Film Festival. Flannigan has also recently completed a screenplay about an undercover FBI agent who must infiltrate a group of eco-terrorists.



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cut class to catch the latest release or art house film and should have figured it out, but when I was in law school I saw nothing but the trees, especially trees named Mahmud, White and Davis.

After graduation, I moved to Seattle, passed the bar and entered the University of Washington tax law program. I was in a daze, swimming inside the code. When I questioned the basis for a particular tax I was told by the Borg-like professor to "Know the Code, then you can question the Code."

I wrote letters to the top 40 firms in Seattle, informing them that I'd be finished with the program in nine months and would like to

## HOUSING: Clinic trailblazes predatory lending case

Continued from page 1 —

HAI senior attorney and adjunct professor Diane Citrino have supervised the Fair Housing Clinic since 1994. HAI receives several calls a week concerning loans that could be predatory.

The targets of predatory lenders are usually people who have substantial equity in their homes, but who are short on cash because of their low or fixed incomes. Lenders, mortgage brokers and home improvement contractors may seek out particularly vulner-

able homeowners on whom to prey. Predatory lenders induce unsophisticated borrowers to enter into loan transactions with payments larger than their incomes can support. Those most often targeted are women, minorities, the elderly, the working-poor and people living in the inner city and rural communities.

Predatory lending occurs in the subprime market, where a thin line exists between a legal subprime loan and a predatory loan. Subprime loans serve

people with past credit problems or an undeveloped credit history. Without the subprime market, they would have extremely limited access to credit. While legitimate subprime loans do charge somewhat higher interest rates and fees, they are not predatory.

Mainstream lenders offer competitive rates and terms and try to make customers understand their loans. Predatory lenders make their money through high interest rates and hidden fees that often result in a loan a customer

cannot afford to pay. It's common for them to begin foreclosure proceedings in the first year or two after a mortgage is signed.

"I hope students come away with a sense of civil responsibility," Citrino said. "I want to get students excited about studying civil rights issues and encourage them to represent those whose voice is not always heard."

HAI is currently working with several local leaders and lawmakers to discuss the necessity of predatory lending legislation.

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## What's life to a juvenile?

By Frank Cwiklinski  
STAFF WRITER

In another proud moment for our criminal justice system, Lionel Tate, age 14, was sentenced last month to life in prison without parole by a Florida judge for committing an aggravated felony when he was 12 years old. Notwithstanding his age and mental capacity, which was determined to be that of an 8-year-old, his only chance for freedom lies with the clemency powers of the governor. (Perhaps he could get a presidential pardon. His mother should start sending money to the Democratic Party now.)

In the United States, the only way a 12-year-old can be treated as an adult is to commit murder. Juveniles lack the cognitive capacity to vote (although I bet they could still puncture a chad), drink responsibly, sign a contract, smoke cigarettes or get an abortion without the consent of a parent. Some of the arguments in Congress justifying the strict tobacco regulations stressed that children, unlike adults, need special protection from Joe Camel, because they cannot discern that smoking is bad rather than cool and sporty. Who will be there, however, to protect Lionel from Joe Warden or Joe Cellmate?

It should be noted that the juvenile justice system has changed dramatically since the pilgrims came over. The Massachusetts Stubborn Child Law of 1646 provided that a rebellious child could be sentenced to death by a magistrate. In 1988, the U.S. Supreme Court held that a death sentence for a juvenile is cruel and unusual punishment in violation of the Eight Amendment.

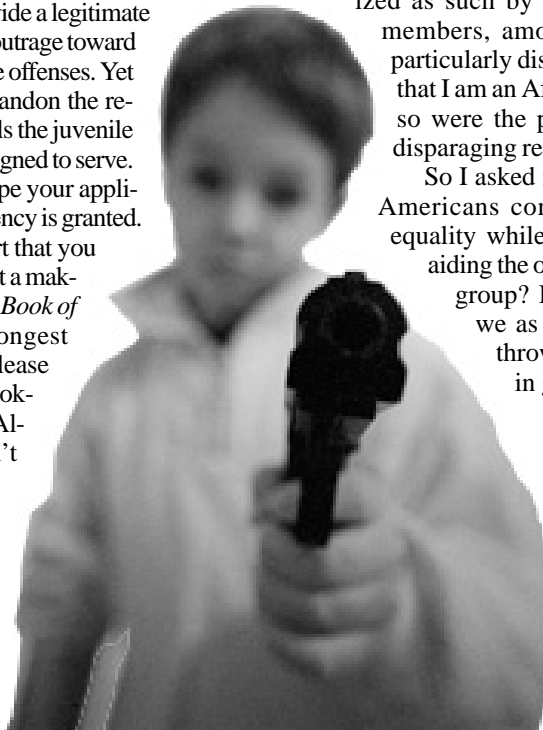
But what is so humane or ordinary about giving a 14-year-old a life sentence without parole? I suggest that Lionel had no idea what "life" means. From his perspective, he probably thought he'd be in school forever.

My solution is very simple. A life sentence to a juvenile should be exactly that — twice as long as he has already lived. This would satisfy those tough-on-crime legislators who are afraid of Willie Hortonizing their next campaign, and further provide a legitimate vent for public outrage toward heinous juvenile offenses. Yet it would not abandon the rehabilitative goals the juvenile system was designed to serve.

Lionel, I hope your application for clemency is granted. If not, take heart that you have a great shot at making the *Guinness Book of Records* for longest prison term. Please do not start smoking in prison. Although you don't realize it now, smoking is bad.

Cwiklinski is a 2L.

Violent kids don't deserve to die in prison.



DAVID BROOKS sketches a thought-police artist's rendering of the coming meritocratic leadership class in the April edition of *The Atlantic Monthly*. Of particular note is his description of its members' collective appearance —

Michael Cheselka

*The Weak in Review*

consume, compete and conform. Interestingly, Brooks connects today's parents, a once rebellious and chemically enhanced lot who now administer Ritalin as a means of curbing their own children's nonconformity, with a current landscape vacant of any meaningful fundamental debates. "Other cultures controlled human behavior by citing divine commandments," Brooks responds. "We control behavior by enacting safety rules."

And so it was last week, on the set of TV-8's "Fox Unplugged." We grappled with the question of whether or not we could have done more to prevent the occurrence of yet another school shooting. We asked: Could we make parents liable for their children's actions? Should we hold classmates accountable for failure to report any comments or innuendos that might later become conduct? Would the TV networks latch onto a new vehicle in the drive to remain everyone's "official school-closing station"?

My views remain steadfast. The boy in the bubble must become the man in the box. That is what happens when the traditional line of demarcation between right and wrong becomes the modern definition of different.



## The kids are alright

Meet the new kids, same as the old kids? *Not.*

This is especially true in a world where life is not fair. You walk down the street and find a \$20 bill, pick it up, walk over to your car and find a parking ticket. You scratch the lottery ticket and discover that you've won \$5,000, then reach for both sides of your head and wonder, "What's this lump in my neck?" That guy who makes the wrong turn and drives deep into the tun-

dra should be left to stay there. He is a greater danger to you and me than he is to himself, because OnStar is too great a price for us to pay to ensure he gets home safe and sound.

Not everybody can be saved, folks. You pick up a bottle of bleach and it cautions, DO NOT DRINK. Let those people go. You buy a chainsaw and the sticker warns, DO NOT STOP CHAIN WITH

HAND. This is a mistake that you can only make twice, and the second time is a real bitch. A can of peanuts must warn, CAUTION: CONTAINS PEANUTS.

What's next? Do we insist that grocery store clerks force the obese to put back the cookies and the frozen pizzas? Can we force baseball cap manufacturers to put a bill on the back of the cap as well? When the 6-inch-deep kiddie pool has NO DIVING warnings painted at 6-inch intervals around the perimeter, I always wonder how many people walk by, read the sign, then change their minds.

We have witnessed the metamorphosis of discipline into child abuse. Our speech has become politically correct in an era when most people hold politics in disdain. We can ask ourselves what was it that made the kids who watched "Leave it to Beaver" and "Mayberry R.F.D." grow up and invent violent video games. We must cope with a society hell-bent on providing our wants with disregard for our true needs.

*The Atlantic's* Brooks observes: "Maybe adult institutions no longer try to talk about character and virtue because they simply don't know what to say. Our connections to that tradition have been snapped." As future lawyers, rugged individualism is a luxury we cannot afford. In a world beckoning us to "be all that you can be," we must not lose the talent and ability to embrace another's passion as our own. It's ironic that Bob Dylan didn't get his Oscar until he penned: "People are crazy, times are strange / I'm locked in tight, I'm out of range / I used to care, but times have changed."

Cheselka, a 2L, is a political and public relations consultant in Cleveland. He appears on the weekly news forum "Fox Unplugged" on TV-8.

## Expect no equality without practicing it

By David Wims  
STAFF WRITER

Recently I've been surprised by the frequency with which I've encountered homophobia. I've heard comments that could be characterized as such by friends and family members, among others. What's particularly disturbing about this is that I am an African American and so were the persons making the disparaging remarks.

So I asked myself, can African Americans concurrently demand equality while participating in or aiding the oppression of another group? In other words, can we as African Americans throw rocks while living in glass houses?

It seems that to ask for equality is to imply that all should be treated alike. It is therefore paradoxical to qualify that request. What that amounts to is a demand for rela-

tive as opposed to absolute equality. I'm assuming the request would be something like, "We want to be equal to white males, but Hispanics, gays, Jews and women should still be oppressed." That's ridiculous! That's not equality. That's disparate treatment.

After much thought I've realized that an absolute dichotomy exists. You either support equality or you support oppression. If you are a member of an oppressed group and you don't support absolute equality, don't complain. Your problem is that the group to which you belong is oppressed as opposed to another. That's the luck of the draw. When the straws were pulled, it wasn't your lucky day. Besides, you've implicitly endorsed oppression — you just prefer it not be perpetrated against the group to which you belong.

However, if you stand for equality, you will not acquiesce in the oppression of any human beings. After all, human rights are what we are talking about. We all deserve to be treated with the same dignity and respect independent of race, color, nationality, religion, gender or sexual orientation. We are all human. Each of us is different from others in some way. In order to ask others to accept our differences, we must learn to accept the differences of others.

Wims is a 2L.



### THE GAVEL

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## Own up to hit-skips in parking garage

**H**AVE YOU WALKED OUT TO the law school garage only to discover that your car has been scratched, dented or otherwise damaged? Unfortunately, you're not alone. Several students in my section, including me, have made such discoveries. Needless to say, those of us who have faced this problem are more than just slightly upset.

Many thoughts have crossed my mind as it relates to this subject. As future legal professionals, shouldn't we have the decency to respect each other's property? Does this mean that all of us will give the general public yet another excuse to dislike those in our profession? This is not meant to imply that someone, other than a law student, has not engaged in this type of behavior. But the proximity of these events and the times of day when they occur support the probability that fellow law students are to blame.

The implications of this behavior are chilling. If a person is so afraid to leave a note, or in some other manner notify the vehicle owner that they accidentally hit their car, they shouldn't have a license to drive.

My car was hit, not severely, but enough to annoy me. If the person who



**The implications from hit-and-run accidents are chilling. If a person is so afraid to leave a note accepting the blame, they shouldn't have a license.**

hit my car had left a note, I would not have asked for them to pay for it. After all, accidents happen. But it was the lack of principle of the hit-and-run driver that aggravated me.

I ask each of you to do two simple things to help curtail this type of activity. First, be careful when driving through the garage. There is no need to speed through the garage or rush into a parking spot. Is the extra 45 seconds going to be the reason for making you late?

Second, be aware of your surroundings. Pay attention to fellow drivers in

the garage. If you witness someone hitting a car, jot down the license plate and turn them in. Not only is reporting an incident the right thing to do, it is *required* by provisions of our canons of professional ethics.

Also, if you are one that has done something like this, it's not too late. The next time if you are that unlucky, simply leave a note. Chances are that the driver will be so appreciative that you told them that you accidentally hit their car, they will likely let it go. Alternatively, if you don't leave a note, you should know that we are watching, and it's very likely you will be caught.

Renee L. Davis  
*Davis is a 1L.*

### Letters

Do you take issue with an opinion in this edition? Do you have a special perspective that would help shed light on the subject? Tell us. E-mail GAVEL@LAW.CSUOHIO.EDU. Submissions must be signed. We reserve the right to edit for clarity.

## For 25 years, one mission: Free Peltier

By Renni Zifferblatt  
CONTRIBUTING WRITER

In our youth, our system of justice is presented as an absolute. But if democracy flourishes, how is it that a man's liberty can be denied in a blatant scheme perpetrated by those charged with protecting our freedoms?

In January, Leonard Peltier, an Ojibwa-Sioux American Indian, began his 25th year of incarceration. His imprisonment is based on a well-documented FBI campaign to silence him and others belonging to the American Indian Movement. Although virtually guaranteed a pardon by former President Clinton, Peltier was not one of the 175 people who received presidential reprieves. Instead, Peltier must serve 205 years for allegedly killing two FBI officers during a shootout in 1975, although even his persecutors have admitted that the true culprit is unknown.

AIM, a Pan-American Indian organization founded in 1968, conducted countrywide protests to oppose treaty violations, land theft, U.S. Bureau of Indian Affairs embezzlement and overt racism. Soon after AIM began receiving national media attention, the FBI began an illegal surveillance operation, the same used against the Black Panthers and others.

The FBI campaign against AIM escalated after members of the group went to Pine Ridge Reservation to protect residents from the BIA tribal president and his self-proclaimed "Goon Squad." A militia group, the Goon Squad was created to thwart opposition to a transfer of the reservation's uranium-rich land to an eager federal government. Its terrorist tactics, including firebombs, assaults and drive-by shootings, resulted in 60 unsolved murders and more than 350 injuries. Once AIM arrived, the Goon Squad began receiving weaponry and intelligence from the FBI to crush it.

On the fateful day of the shooting, two FBI agents in unmarked cars drove into a secluded area of Pine Ridge to allegedly search for a thief. Fearing an attack by the unknown trespassers, AIM and residents took up arms in self-defense. During the exchange, two FBI agents and one American Indian were killed.

Since his trial, Peltier's counsel finally received FBI records proving that the AIM confrontation and his prosecution were planned. Although over 30 million signatures and an impressive number of international human rights organizations have been added to his clemency petition, he remains in exile.

Leonard Peltier is a symbol of a time when people had the courage to rally against racism, Vietnam and other civil deprivations. Until his freedom is restored, can we truly instill faith in our young or believe in a system that victimizes the exercise of our fundamental freedoms? And as advocates, to whom do we owe our allegiance?

To help, contact the Leonard Peltier Defense Committee at (785) 842-5774.

*Zifferblatt is a 2L.*

## Memo to preachy Oscar winners: Stick to your scripts

If you're reading this, you know the Academy Awards ceremony is over. Because this article is about, in part, that very show, I would first like to point out how disappointed I am in this damn editorial staff's decision to postpone the publication of — wait a minute — I'm on that damn editorial staff. Well, the point I'm trying to make is that the staff made the best decision that it could *under the circumstances*. Whatever those were.

The other point I'm trying to make in this piece is that Michael Cheselka isn't the only law student who can pen good comedy in this rag. Look at this, no hands!

Finally, I'd like to say that I love watching the Oscars, but hate *hearing* them. I'm sure worldwide fame and millions of dollars can be quite an ego-inflator for these thespians. I love all things inflated in Hollywood, particularly the chests. But I can't stand listening to those same big-breasted bimbos and overstuffed clowns proselytize about their trite politically correct positions that they think the rest of us should share.

Don't get me wrong. I often agree with those trite politically correct positions, broken English and all. But I also think they should leave the writing of their sermons on the Beverly Hills to *real* writers.

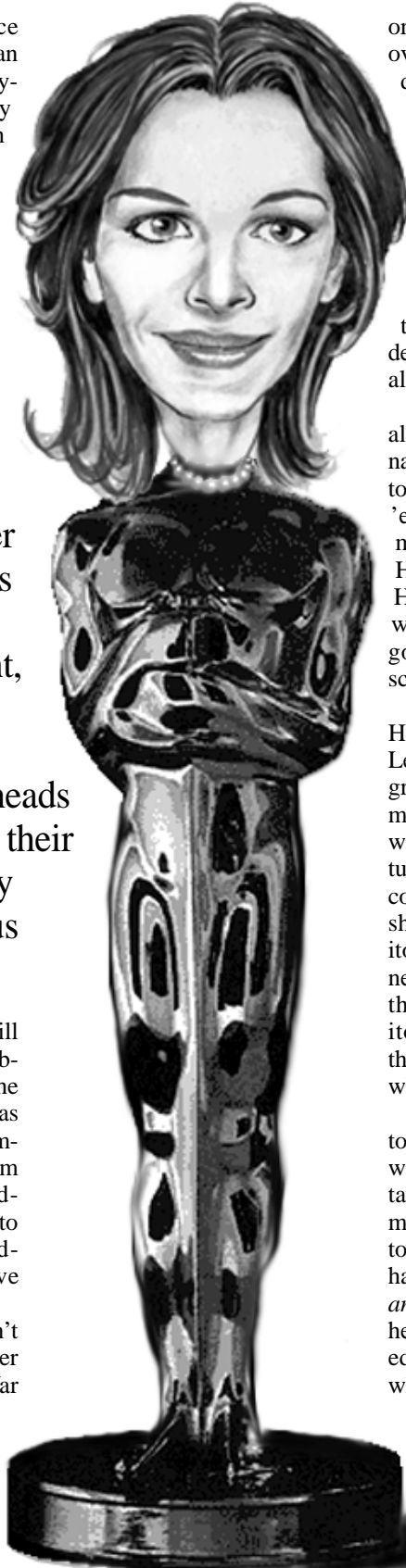
For instance, who could forget that mawkish and maudlin speech Tom Hanks gave after receiving the Best Actor award for his portrayal of an embattled gay man in "Philadelphia"? Hello, Tom? Just because you're a sharp gay lawyer on the big screen doesn't mean you're sharp, a lawyer, or gay in real life. Just take the award and stick

to the 45-second acceptance speech limit. Besides, who can believe a word from that teary-eyed speech anyway? Not only is Hanks an actor, he's an *Academy Award-winning* actor. Oscar winners should just say "thanks" and then go snort that earth-shattering coke the rest of us can only dream of getting a hold of.

**Rumor has it that Julia Roberts will now use her Best Actress muscle to uncover George W. Bush's incompetence. Even if she's right, why should we listen to all these Hollywood lunkheads proselytize about their trite opinions they think the rest of us should share?**

The Hollywood rumor mill has it that now that Julia Roberts has won Best Actress she will use her newfound respect as a platform to uncover the incompetence of George II. From busty-bimbo-hooker-turned-lucky-Richard-Gere partner to busty-bimbo-tramp-turned-lucky-lawyer partner, you've come a long way, baby!

Take my advice, Julia: Don't bother with George Jr. Whether it's resurrecting the Cold War and committing a needless international incident by expelling 46 Russian intelligence officers after the fact,



or recklessly pissing off China over tiny Taiwan, or back-peddling on carbon dioxide emissions that scientists around the world declare damage the environment, or countering an impending recession that no one had even heard a word about until he was all but certain to win the presidency with the abolition of the estate tax, Junior does a fine job of demonstrating his incompetence all on his own. Bah-dah-bing.

It's true that writing is easy; all the words are in the dictionary and the only thing you have to do is pick a few out and print 'em up. But that still doesn't mean *everyone* should write. Hollywood Adonises and Helens of Troy should stick with what they know: looking good and reading from their scripts.

Clinton had it right: Take Hollywood's money and run. Let the Republicans criticize the gratuitous sex and violence in movies. (By the way, I agree with the right wing's take on gratuitous violence. As far as I'm concerned, so much as one swift shot to my shoulder is gratuitous. But too much *sex*? I have never thought, after getting laid, that the woman acted gratuitously. Quite frankly, I was thankful, and still am. Don't ask what the women thought.)

So, for all the Hollywood actors and actresses who next year will obviously need an acceptance speech writer, I'm your man. Forget all the thank yous to people the rest of the world has never heard of. As a writer *and* an editor I can draft you a hell of a 45-second speech and edit it to boot. And I can write it while earning a juris doctor, too.

And the comedy? Tony Kornheiser, eat your keyboard out.

*Petrus is a 3L.*



ANNOUNCING THE WINNERS OF THE GAVEL'S THIRD-ANNUAL STUDENT ESSAY CONTEST

# What do judges do in their chambers?

**T**HAT'S WHAT WE asked a team of 10- and 11-year-old experts from Louisa May Alcott Elementary School in Cleveland.

Regrettably, we at the *Gavel* had little advice of our own to offer the fifth-grade contestants before they began writing. So their guesses were as good as ours — which made for some pretty off-the-wall replies. Read on for their prize-winning answers.



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## David Hall

A judge might look over the court reporter's papers in case he missed an important detail. He probably goes into his chamber and chills. He probably takes a breath from all the chaos.

A judge does a lot of things in his chamber. One of them is he buys a pizza if he gets hungry. He might also eat snacks after pizza. I think you would love to see a judge's chamber and all his hidden secrets.

## Manar Hassan

I think that a judge decides with the court reporters who goes to jail. Also, he might be asking questions to the victim — why he didn't pay his national taxes before April 15.

In his chamber, you might think that the judge just does problems. But they sure eat a lot more than your parents. The jury looks very surprised at them.

## Taylor Swindell

The judge goes into his chamber for very important thinking time. He goes into his chamber to think which person should win the case or who should lose the case. He might read over the notes he wrote about the case. He might look over the notes the court reporter typed on his or her typewriter.

What I really think is going on in there is the judge is talking to the jury to see which person sounded guilty.

## Mercedes Mitchell

After a judge is done with the case, he goes into the chamber (the judge's office). He or she goes to their chamber and decides who won the case. The judge compares what the court reporters typed and the records.

Sometimes they ask the jury if they know anything and if they do, he asks what is it that they know.

## Justin Howard

Yikes! What does the judge do in his chamber? He probably orders a pizza and eats it, or maybe even buys a cake. And the guilty person gets the cake in his face!

Maybe he sleeps in there because he's up all night watching himself to see if he looks good on TV. Or his gavel! I bet he got the gavel banged up and he has a machine to fix it.

His chamber is full of papers from the court reporter.

This contest was made possible with the support of **Dennis F. Butler '68**, a criminal defense attorney in Cleveland. Special thanks also go to **Suzanne Lynch**, fifth-grade teacher at Louisa May Alcott.

### HONORABLE MENTIONS

Maybe the judge could be lounging back in his chair eating a Snickers bar.  
— *Selena McRoberts*

Do you know what's going on in the judge's chamber? I think they are sitting in a chair and watching "WWF Smackdown."  
— *Gary Maynard*

What if he reads articles on aftershave gel? Maybe he calls his buddies to see if the Indians are winning or if the Browns are winning.  
— *Arielle Moraco*

I think a judge really takes his hammer like a microphone to sing songs that Elvis sang!  
— *Amythyst Weeks*

The judges take breathers from always saying, "Order in the court!" Every judge takes the cotton balls out of their ears so the people in the jury arguing don't bust the judge's eardrums.  
— *Joanna Esmurria*

In the judge's chamber, the judge probably orders a Tombstone pizza.  
— *Luis Sunsin*

The judge might go to sleep until the time period is over.  
— *Joshua Shank*



## Incoming law review editor wears many hats — including a queen's tiara

**Note:** "Focus On," a regular feature of the *Gavel*, profiles some of Cleveland-Marshall's more interesting people.

By day, 2L Sarah Lally is a top law student who has just been elected next year's law review editor and who landed a summer clerkship with one of Cleveland's top firms. By night, she's an active musician performing with area Celtic band Tap the Bow. And in March 2000, Lally was crowned Queen Dierdre, the traditional queen of Cleveland's St. Patrick's Day parade. She talks with the *Gavel*.

**What takes precedence — law school or music?** Music is

definitely closer to my heart than law school will ever be. But my music has taken a back seat to my responsibilities with law school more times than I would like to admit. I know that I will be playing music for the rest of my life, so I try not to feel too guilty about primarily focusing on law school right now.

**How do you balance your time between the two "specialties"?** I try to be realistic and not get too caught up with either one. I play out with my band, Tap the Bow, about three times a month. I teach private lessons on the violin and the bodhran (drum)



## Focus On: Sarah Lally

two days a week. And I probably go to one or two informal jam sessions a month. The music is a nice contrast to law school. It helps me to maintain my sanity.

**When did you pick up music for the first time?** I started playing the violin when I was 7. I learned from older Irish musicians in the community. I started singing when I was in junior high. I sang in the choir at school as a soprano, despite the fact that I

could not hit a solid high note to save my life. I eventually found my niche as an alto. Now, I love to sing low songs with a bit of attitude. I enjoy singing songs by Patsy Cline, Diana Krall, Joni Mitchell and Janis Joplin. I've been playing the Irish bodhran since I was 15.

**Have you developed any interest in specializing in the law yet?** Not yet. I really enjoyed working for a plaintiffs' litigation firm last summer.

This summer I'll be at Benesch, Friedlander, Coplan & Aronoff. I'm looking forward to observing how different areas of law are practiced outside law school

and focusing my interest on two or three areas.

**What about being coronated Queen Dierdre?** It was a wonderful experience to be so highly regarded and honored by the Irish community. St. Patrick's Day 2000 will always be special to me.



COURTESY S. LALLY

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