Moot Court teams hit with one, two punch
By Donna M. Holland and Christopher Friedenberg

STAFF WRITERS

On the heels of another successful Moot Court Night, two Cleveland-Marshall teams finished the Regional Finals of the American Bar Association’s annual National Moot Court Competition with the top two briefs.

Team Two, led by Mark Gould, Rhonda Porter and Don Herbe won the best overall brief in the region with their “Best Respondent’s Brief.” Team One, led by Renee Davis, Michael Hunter and Danielle McGill, finished with their the number two brief in the region, “Best Petitioner’s Brief.”

Because competition rules indicate that only one team from the same school may advance to the National Competition in New York, the two C-M teams argued against each other for the chance to move on. Team Two won, and will advance to the

Anarchist Black Cross

Programming academic success
By James Lucas

STAFF WRITER

In the admissions process, candidates vie for a limited number of seats in the nation’s law schools. Admission officials weigh undergraduate GPA and LSAT scores. However, a new program implemented by C-M emphasizes factors including the candidate’s life experiences and ability to overcome adversity.

The Academic Success Program was introduced by the Department of Student Affairs this semester for 1Ls. According to Assistant Dean for Student Affairs Gary Williams, similar programs have been around for years.

“Beginning in 1992, law schools across the country started to become interested in ‘nontraditional’ admits,” said Williams. “More was taken into account than just GPA and LSAT scores. The whole person was looked at rather than principally numbers.”

The program also includes small groups of program participants studying with teaching assistants. “Under the small group method, students will learn to analyze facts and think clearly,” said Williams. Williams notes, however, that the program is not designed to be a review session of any particular course.

Rather, the program seeks to provide students with the assets needed to practice as an attorney. “The purpose is not to teach substance, but skills,” said Williams. Additional goals include student retention and an improved bar passage rate.

“The students who were invited were invited based upon GPA, LSAT and other considerations,” said Williams. Attendance has not been a problem to those extended an invitation. According to Williams, approximately 75 percent of those invited participated in the voluntary program.

The program is not offered to every first year. Williams admits, “There is a limited budget for the program and teaching assistants must be paid.” It is hoped that the program, as well as the budget that sustains it, will grow.

Enthusiasm in the project is shared by Associate Dean Jack Guttenberg. “We think it can help a lot of people do better.”

C-M officials believe the program can bring in excellent candidates whose capacity to excel in law school are found in qualities other than high GPA and LSAT scores. The program is designed to bring in applicants whose personal qualities evince potential for success.

AFLAC cries “foul” over political squawk
By Jay Crook

STAFF WRITER

The 2002 election season has come and gone, with Gov. Bob Taft defeating Tim Hagan in a decisive contest. Yet one of the hottest issues remains—what about “Taftquack”?

“Taftquack,” a creation of the Hagan campaign, first made its appearance on a website at taftquack.com in early September. While not the homepage for the Hagan campaign, a link led web surfers to Hagan’s site. The “Taftquack” character is a cartoon composite of a duck’s body and Taft’s head, with a duck bill, that when asked questions squawked, “TAFTQUACK,” in a nasal voice. The duck’s body and voice were highly reminiscent of the popular AFLAC television spots, also featuring a duck.

A number of spots including the “Taftquack” figure were run by Hagan. Taft eventually incorporated the idea into some of his own spots, featuring a different duck.

Soon after the “Taftquack” website debuted, AFLAC filed suit in the Northern District of Ohio. AFLAC accused Hagan of federal trademark infringement, as well as trademark dilution. Judge Kathleen O’Malley, who was assigned to the case, heard oral arguments on the issue of both a temporary restraining order (TRO) and a preliminary injunction (PI). After the dust had settled, Hagan was victorious, but the fight may not be over.

The driving issue of the case revolves around the trademark dilution cause of action created by federal statute. To be successful in a trademark dilution cause of action, the plaintiff must show that the mark is famous, that the use by defendant is commercial and causes “dilution of the distinctive quality of the mark,” through “dilution” or “tarnishment.” On all of these criteria, O’Malley found in favor of AFLAC at both the TRO and PI hearings. There are however three exceptions to the statute, in

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C-M’s July 2002 Bar Exam passage rates

Overall: 60%
First time takers: 75%
Repeat takers: 25%
GPA 3.0 or higher: 91%
GPA lower than 3.0: 47%

First time takers: 73%
Repeat takers: 25%
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Bar Pass Rates Up

By Steven H. Steinglass

Rates Up

The most significant thing to watch is how C-M performs as a school, is difficult because the profession and the public demand it be difficult. There’s too much at stake for it to be otherwise, but every C-M student has the ability to succeed in law school, to pass the Bar Exam and become an accomplished attorney.

In recent years, C-M strengthened its program of legal education to make passing the Bar more likely. This included expanding the first-year Legal Writing and Research Program, introducing a third required semester of legal writing, strengthening our program of academic assistance and using more bar exam-type testing. We resisted grade inflation, urging faculty to use the full range of grades.

There are encouraging signs that these measures are effective. For example, the 2002 graduating class had a 74 percent pass rate. Moreover, first-time pass rate on the July 2002 Bar Exam for the full-time students who entered in 1999 was 84 percent. The most significant thing we learned is that the best predictor of success on the Bar Exam is success in law school. For the last six graduating classes, the pass rate of students graduating with at least a 3.0 GPA was 91 percent, while the rate of those with a GPA lower than 3.0 was 47 percent.

Our review of bar performance reveals that, in the last three years, part-time students have not done as well as full-time students. On the July exam, 83 percent of our full-time students passed, while only 65 percent of our part-time students passed. Because part-time and full-time students are admitted based on identical criteria, we believe the disparity is best explained by the different obligations these groups face. Nevertheless, for both part-time and full-time students, the message is the same.

Students should make preparation for the Bar the highest priority. Take a review course, take time off from work, say good-bye to friends and family and study, study, study.

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Bar Exam results of the July 2002 Ohio Bar Exam were posted Nov. 8. With this in mind, it seems a good time to write about what C-M is doing to prepare students for the Bar.

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Ulmer & Burne awards excellence in advocacy

2L C-M students Brendan Doyle, Siegmund Fuchs, Christos Georgalis, Bryan Kostura, Susan Parker-Taylor, Leonold Wetula and Dean Williams were awarded the 2002 Ulmer & Burne Moot Court Associate Member Scholarship Award.

The recipients, all of whom are members of C-M’s Moot Court Board of Governors, were selected based on overall brief writing and oral advocacy skills in last spring’s 1L Moot Court competition.

“The recipient of this award is a testament to each of the students’ hard work, skills and dedication,” said Maria Citeroni, an associate with Ulmer & Burne, and manager of the award program. “The recipients receive a cash stipend as part of the reward.”

Citeroni was one of the first award recipients when she was a C-M student. “The program helps to prepare students for the real-life appellate courtroom experience,” said Citeroni. “There was no experience that was more valuable and gratifying that my membership on Moot Court Board of governors while I was in law school.”

ON THE AUCTION BLOCK

The Women Law Students’ Association held its annual silent auction from Nov. 13 through Nov. 15. Items being auctioned off ranged from art work, sports memorabilia, bar review courses and dinner with numerous C-M professors. WLSA has yet to announce its total funds raised through the event to the C-M community.

2L IN NATIONAL NEWS

2L Carl Rose is featured in an article of the October 2002 issue of National Jurist, “Blindness no barrier to legal success.” In the article, Rose is quoted as saying, “It’s a great occupation for the visually impaired. We get paid to talk and write.”

SBA FUND ALLOCATIONS

SBA awarded funds this year to the following organizations: Asian/Pacific Islander Law Student Association ($1000), Black Law Students Association ($3,500), Delta Theta Phi ($1,500), Environmental Law Organization ($800), the Gavel ($1,500), Hispanic Law Student Association ($100), International Law Student Association ($100), The Journal of Law and Health ($1,200), Law Review ($550), Moot Court ($500), Student Public Interest Law Organization ($2,500) and WLSA ($1,500).

“LAW DAY” AT THE INN

On Nov. 8, 12 C-M students and Pamela Daiker-Middaugh, attorney for C-M’s Law and Public Policy Program, spent the day at the Friendly Inn Community Center on the near east side. The purpose of their visit was to participate in “Law Day,” providing children with information about college, law school and legal careers.

NEW COURSES IN SPRING CURRICULUM

Two professors from across the pond will be teaching courses in comparative law in spring semester. Prof. and Dean Ireane Lynch-Fannon of the University of Cork, Ireland will teach a course in the legal traditions of common law, civil law and various schemes of indigenous law from a comparative perspective. Westminster University in London, England will teach a course on Comparative Legal Process. Lynch-Fannon’s course will explore EU structure, labor markets and laws, comparing them to their counterparts in the United States. This is the first time this course will be taught at C-M.

Webb’s course will explore the legal traditions of common law, civil law and various schemes of indigenous law from a comparative perspective.

SBA SOCIAL SCENE

The SBA held two well attended social events outside of C-M in the past month. On Oct. 31, C-M students packed Becky’s for SBA’s Halloween Party. Most recently, C-M students headed down to the Warehouse District to the SBA’s pre-finals soiree. Over 100 students attended social events outside of C-M in the past month.

Compiled by Colin Moeller

Tips for Notes in Brief may be submitted to the Gavel at 216.687.4533, or via e-mail, gavel@law.csuohio.edu
Patience prevails in job search

By Karin Mike
LEGAL WRITING PROFESSOR
Q: When should 1Ls look for summer jobs?
A: I think one of the primary mistakes that 1L students make is trying to decide who they will ultimately be during the first week of school. Sometimes you lock yourself into people and situations that are the worst of all possible decisions in the long run. The same goes for that first summer job. I won’t say don’t keep your eyes open, but I will say, don’t jump too quickly at the first thing that you see because you fear you won’t get anything else. Take your time and see what’s out there, but if you see something that you truly don’t want to do, check back again a little later to see if there is something more suitable. Also, put all of that on hold if and when it impedes your studies.

The first semester, especially, is a time to concentrate on your studies and solidify your knowledge base. After all, you have to figure out what you know before you figure out what you want to do with what you know. Not all clerking experiences are the same, and you can really get turned off by the study of law if you wind up working in a field that frustrates or bores you. In addition, if you do have a set goal in mind, taking anything that comes along may set you up to have experience in the area and pigeonhole your future options. Don’t carve your destiny in stone too early. And, don’t think there won’t be choices that might arise after everyone else has seemingly already decided what they are doing.

Bar reviews put to the test, which course is right for you?

By Amanda Paar
STAFF WRITER
A cadre of C-M students traveled to Washington, D.C. for the Equal Justice Works public interest law career fair and conference held at the Omni Shoreham Hotel.

Conference sessions on securing public interest employment, predatory lending, employment law and civil rights law after Sept. 11 informed those in attendance. Students participated in seminars as well as table talk sessions and interviews with prospective employers. Ralph Nader delivered the keynote speech and 4L Sandra English became president-elect of Equal Justice Works.

English, an SBA Senator and former C-M BLSA president, previously held a Midwest Regional Representative position with the National Association for Public Interest Law (NAPIL), the predecessor to Equal Justice Works. English will serve a two-year term as the renamed organization’s chief executive and will sit as vice chair of its board of directors. She said her mission was “leading the organization in its efforts to organize law students across the country as members of the leading public interest organization in the nation.”

Current C-M BLSA president, 2L Monique McCarthy said that Equal Justice Works “did an excellent job of highlighting the various areas within public interest law.” 2L Marina Cornachio noted there were an “exceptional number of employers that turned out” and observed that the employers were “excited to be a part of such an event.” 2L Patrice Gonzalez said, “The sessions offered were informative, providing basic information for those beginning their public interest job search.” 3L Anna Markovich said she...

Nader used a litany of tragic examples of corrupt corporations abusing U.S. consumers to incite the group to zealously pursue careers in public interest law.

“found the speakers to be useful and enjoyed meeting with employers during the table talk sessions.”

Employers interviewing at the conference included the State Department, Securities and Exchange Commission, Justice Department, Environmental Protection Agency, National Organization of Women Legal Defense Fund and the noted civil rights law firm, Relman and Associates. Senior partner John Relman has been an advisor to the C-M Fair Housing Clinic as they prepare to test the Fair Housing Act before the Court in City of Cayuga Falls v. Backeye Community Hope Foundation.

The annual event attracts nearly 200 employers and 1200 students and participants nationwide.

Ralph Nader delivered the keynote speech just moments after learning of Senator Paul Wellstone’s death. The fossil consumer rights attorney gave a poignant keynote speech that lacked his typical animation. Nader, who stumped for the right to reside in the White House in 2000, made a Cleveland State University campaign stop that year organized by the C-M Student Public Interest Law Organization. SPILO also sponsored the C-M Student trek to the District.

SPILO Advisor and C-M Pro Bono Director Pamela Duke-Middaugh and Prof. Beverly Blair led the C-M contingent at the well-attended speech.

Nader took a lengthy silent pause before delivering his remarks and was visibly distraught throughout his comments. Nader slammed the speech, using a litany of tragic examples of corrupt corporations abusing U.S. consumers to incite the group to zealously pursue careers in public interest law.

Equal Justice Works leads the nation in supporting public interest law in law schools and among students. Through charitable donations, the group funds work to zealously pursue careers in public interest law.

Bar/Bri and Rossen both use DVD home study courses and offer free DVD players upon course completion. Free admission to Ohio Bar Review lectures is also provided with the Bar/Bri home study course. Rossen provides a web-based training environment for the Multistate Bar Exam (MBE) with no extra software required.

Rossen lectures offer six in-class practice essays administered and graded by Ohio attorneys. Rossen also provides copies of past bar exams with sample student answers. Bar/Bri offers a six-hour simulated MBE. Simulated exams are computer graded against up to 35,000 other Bar/Bri students nationwide.

Rossen is noticeably more “Ohio specific” than Bar/Bri. The Ohio-based Rossen staff provides an Ohio essay and MBE approach to potential Multistate subjects. While Bar/Bri also provides Ohio material, it balances its state-specific section with material focused on the MBE and Multistate Performance Test.

According to Marc Rossen, the Practicing Law Institute is Rossen’s multistate supplemental workshop and is offered to clients without charge.

PMBR’s mission is MBE preparation. PMBR claims it is not in competition with the rival bar reviews. Rather, it defines its offerings as a supplement to those courses and does not cover the same material that Rossen and Bar/Bri respectively teach.

According to its website, PMBR creates offers of summaries of the major topical areas such as contracts and torts. PMBR further claims that on a one to 10 scale, average PMBR questions are a nine or 10 in difficulty and focus on gaps in the law, such as, “mortgages, perfection of security interests in fixtures and riparian water rights,” rather than a concentration on summaries of the major topical areas such as contracts and torts.

PMBR also suggests that its techniques and strategies result in a successful bar exam.

PMBR’s claim of market neutrality, it boasts of a “competitive edge” over other programs based upon the scores and passage rates of their customers.

PMBR lectures are administered considering closer to the actual exam in order to “maximize short-term retention.”

PMBR claims that students who supplement their bar exam preparation with this course of study increase their final scores by up to 20 or 30 points. PMBR further claims that on a one to 10 scale, average PMBR questions are a nine on 10 in difficulty and focus on gaps in the law, such as, “mortgages, perfection of security interests in fixtures and riparian water rights,” rather than a concentration on summaries of the major topical areas such as contracts and torts. PMBR also suggests that its techniques and strategies result in a successful bar exam.

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A Measure of C-M's Success

Having read the latest installment of the “1L First Year Life” series, several thoughts come to mind. There are a few ‘types’ of students that get on our nerves. Human beings simply are not capable of liking everyone they interact with. That luxury is reserved for big purple dinosaurs and Mr. Rogers. However, I think that it is equally uncommon to hold ill feelings toward everyone who acts differently. The Anonymous 1L seems to find fault with the actions of those who do not, like he does, sit quietly in the back of the classroom and refrain from interaction. He seems to think that the ‘know-it-all’ Freedom Fighters and comedian are, foolish and, those who conform to such stereotypes are doomed to fail. Why is it that he feels this way? I do not think it is in error. He criticizes the author for considering those that he equates annoying behavior with talking out loud in class. All of the stereotypes already crunched the numbers, ready to post them on brochures and websites. However, a better measure of how well a law school prepares students for the Bar is in the classroom, not in overall percentages. The average student’s course selections prove he does not rest on his school’s laurels. Rather, he is relying on his choice of classes and class work to pass the Bar. Lessons learned in Torts are usually long forgotten by the time 2L begins, however, the foundation built first year can prove immeasurable three years later. After finishing the Required Core Curriculum, students pack their schedules with “bar classes” in an effort to learn material that will be tested on the Bar. In practice, there are plenty of students who will review see the inside of a courtroom, but sit through Criminal Procedure their third year up on the bar. Future litigators fill business law classes to make sure the first time they see a secured transaction is in the classroom and not on the Bar. Certainly, there are those students who save bar preparation for bar review courses. But, most of the seats filled in Commercial Law are students opting for another bar course. Fulfill bar passage expectations in the classroom, not in the numbers. Impress students with the quality of the education received at C-M. When a majority of the class indicates they registered for Corporations because it is tested on the Bar, give them what they came for. When students register for these classes, they do so with an expectation that the upcoming semester will cover topics bar examiners deem important.

There are many reasons for the low overall pass rate at C-M. The likely cause of C-M’s low rate is the high number of repeat takers from C-M. Statistics show that the majority of an individual takes the Bar, the less likely he is to pass. Rather than excise the low overall pass rate with more demographics and rates to match, C-M must show students that the school is doing all it can by teaching adequate bar preparation in the classroom through the topics covered and exams administered. While law school is more than a three-year bar review course, the emphasis placed on first time passage, coupled with the relatively low law passage rate in Ohio, force law students into that mentality. Practical learning and practice advice are valuable and appreciated. But, in the student’s mind, those lessons will remain less valuable than the elements of a battery until the Supreme Court of Ohio recognizes their import and includes them as one of the tested topics on the Bar.

THE GA VEL

By Brian Stano

SBA BOOSTS BUDGETS

According to my high school political science teacher, the primary job of government is to decide who gets what, how and when. In other words, government decides where the money goes. And as Prof. Ammons will enthusiastically remind her students, if you want an answer to an issue, “just follow the money.” As the chair of SBA budget Committee, I not only follow the money, but along with a committee of four students, I make how much money SBA can use to “cosponsor” a student organization event. While reviewing the SBA’s discretionary fund that SBA can use to reserve approximately $2,900 (the amount requested). The Committee decided how much funding the organization received last year, how many members the organization has, how much funding the organization requested last year, etc. After the decisions were made, the proposed budget was submitted to SBA Senate, where it was quickly approved.

SBA had roughly $23,500 to allocate (almost $75,000 was requested). The Committee decided to reserve approximately $2,900 for new organizations, as well as a discretionary fund that SBA can use to “cosponsor” a student organization event. In order for the organizations to actually receive their money, they were required to read and complete an application packet, which included signing a contract promising a detailed financial statement to be submitted to SBA at the end of the year. So far, most organizations have complied; however, some organizations were appointed by the allocations, but that is what happens when there isn’t enough money to go around.

In other news, SBA purchased two new microwaves for student use in the lounge. Due to electrical problems, we had to shut down the old microwave. However, we will soon place the old one (which still works) where the other broken, old one currently is. SBA is working hard to get the DirectTV back into the student lounge. The receiver was stolen last summer, and once we have a new one, television programming will return (but with extra security measures, of course).
The Gavel presents this piece in remembrance of Frank Cudlitz, Gavel Columnist and veteran. The piece originally appeared in the Gavel’s Dec. 2000 issue. On Nov. 10, Cleveland Marshall closed its doors to commemorate Veterans Day. The name of the holiday seems self-explanatory, but how many of us really know what the celebration entails? I admit, even after several years on active duty, my knowledge was sparse. My own research led me to these discoveries.

The first Veteran’s Day was actually Armistice Day. It was created by President Wilson Nov. 11, 1919, to commemorate the one-year anniversary of the end of World War I. Armistice Day, however, did not receive official recognition by Congress until 1926 and did not become a national holiday until 1938. Had the Great War turned out to be the “war to end all wars,” the holiday would have probably retained its original name. History, of course, proved otherwise. After World War II and Korea, President Eisenhower signed a bill proclaiming Nov. 11 as Veterans Day, to honor all Americans who have served in times of war.

In 1968 Congress passed the Uniform Holiday Bill, placing Veterans Day on the fourth Monday of October. The intent was to provide Americans with four national holidays on Monday. Congress believed that these long weekends would encourage travel, tourism and cultural activities and stimulate greater industrial and commercial production. Personally, I find the Congress’ decision to attend law school.

The following is the third in a six-part series following a first year C-M student from orientation to spring exams. We are approaching judgment day. Finals are almost here.

I have mixed emotions about finals. In general, I feel unsure about what to do, and that only leads to anxiety. And the preparation and studying for finals is something that I am not looking forward to at all. But, in some twisted way, I am looking forward to taking exams.

While most of my professors haven’t given some guidance as to what to expect, I still find myself wondering what the finals presentation will be like. Some people tell me finals period is one of the most stressful times anyone will encounter, while other people tell me that it really is not that bad.

I think the most difficult and stressful part about finals is the preparation period. I currently find myself playing catch-up. During the past couple months, I have been prepared for class, but I felt a little out of a lot) behind on final exams. Now, my goal is to get all my outlines done at least before reading period. I try to justify this procrastination by telling myself that doing the outlines late in the semester will reduce the time necessary to actually study during the weeks proceeding each final. My hope is that because the information will be fresh in my mind, once I begin studying, I will not have to do quite as much. While I may be kidding myself, I plan on studying seven hours a day during reading period. However, I am finding that outlining is not an easy process. The main problem I am having is effectively organizing the outlines. Furthering this is the uncertainty that I have encountered when talking to different ILs about their outlines.

It seems like for every person I speak to, I hear a different view as to “the right way” to outline. Most students tell me that their outlines are 40 pages each, while mine are in the 15-page range. Am I doing something wrong? While it seems as if I have all the concepts included in each outline, I am trying to find out what I am missing.

While the preparation is, and will continue to be, less than enjoyable, I look forward to the actual test-taking. When I start reading each exam, and panic sets in, I know I will question my decision to attend law school. Hopefully, the initial feeling of hopelessness will fade, and I will do my best. That is my goal. If I miss a concept that I did not study, I will not be upset. But, if my nerves get to me, and I forget to write about concepts I know, I will be disappointed. Once the two weeks are over, and finals are complete, it will be time to enjoy the off-time and relax. However, these weeks will remain stressful, as we wait to receive our grades.

These grades will tell us a lot. Is law school right for me? Did I do as well as I possibly could? Should I do something different to be ready for the spring exams? If I do badly on exams, there are other changes I can set in motion. Hopefully, I will not have to change a thing.

Outlining panic and exam-phobia grip pre-exam ILs

The economy is down, corporate America is corrupt and the economy? I am not a proponent for either party, but November’s elections warrant notice that history was made na- tionally, and “Taftquack” was all the Democrats could muster in Ohio.

Dem's jump ship in GOP-aligned Ohio

By Grant Monachino

Check the stats, but Nov. 5 was the first time in history that both the House and Senate gained Republican seats, in a midterm election, while a Republican was President. What happened the first week in November to spark this change? The economy is down, corporate America is corrupt and the economy?

By Grant Monachino
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