Show me the money

If time is money, then preparing for the Bar will cost a small fortune. Jayne Geneva '87, gives some serious advice on how to prepare for three important days.

CAREER, PAGE 4

Tuned In

It seems the entire world, the New York Stock Exchange included, watches the hottest reality TV show, live 24/7 from the Gulf.

OPINION, PAGE 6

Exam Anxiety

The Bar really *is* that bad. But, after two months of studying seven days a week and three days of taking the exam, post-exam perspectives are encouraging.

OPINION, PAGE 7

THE GAVEL

VOLUME 51, ISSUE 5 APRIL 2003

THE STUDENT NEWSPAPER AT CLEVELAND-MARSHALL COLLEGE OF LAW

Budget cuts force tuition hike

By Christopher Friedenberg
STAFF WRITER

Beginning this summer, C-M law students will be hit with a 9.9 percent increase in the cost of their legal education. Full-time C-M students will pay a thousand dollars more for next year's tuition.

The Cleveland State University Board of Trustees approved the increase at the end of March, after CSU lost $1.6 million of state funding last month. Governor Taft, responding to Ohio's budget deficit of $162 million, reduced public funding of higher education by $39.2 million for the remainder of the 2003 fiscal year.

"Because the University swept salary savings from vacant positions, it was able to absorb this cut without coming back to individual colleges and departments to reduce budgets for the current fiscal year," said Vicki Plata, director of C-M's budget and administration. "It would have been hard to make cuts with only four months

See BUDGET, page 3

U.S. Supreme Court Justice Antonin Scalia addresses a C-M audience March 19 in the Moot Court Room.

Continuing Court Coverage

C-M had a *Supreme* year. C-M students drafted an *amicus* brief in the case of *Eldred v. Ashcroft*. In January, the C-M Fair Housing Clinic litigated before the Court in *Cuyahoga Falls v. Buckeye*. Chief Clerk General William Suter visited C-M in the Fall. And, Justice Scalia brought his "textual originalist" brand of constitutional interpretation and his Socratic method style of Q & A to C-M in March.

Turn to page 2 for more.

Scalia skewers in fiery debate

By Clare Taft
EDITOR-IN-CHIEF

Cleveland-Marshall played host to self-described "textual originalist" U.S. Supreme Court Associate Justice Antonin Scalia, March 19.

Addressing a joint Constitutional Law class, C-M students and faculty in the Moot Court Room, Scalia outlined his version of constitutional interpretation as the "only" valid means of interpreting the document. In deciding a case before the Court, Scalia said he first goes to the text of the Constitution. Where the text is vague or unclear, he attempts to determine what the text meant in 1789 when the Constitution was written, not the intent of the Framers.

"I can't dismiss the Constitution and say it's the work of old, dead white males. If you can think of an alternatively correct form of interpretation, I'd love to hear. The funny thing is, not one person has been able to yet."

In an open question and answer session following his remarks, Scalia dismissed any questions attempting to justify forms of constitutional interpretation, other than his "textual originalist" theory. Aware of his audience, Scalia said, "I could walk into a law school faculty lounge and fire a cannon of grapes and not hit one originalist."

As for a "living Constitution," Scalia said, "the Constitution was not written to appease the changing standards of society. If you want to amend it… go ahead. If you can convince a whole society that all these new rights ought to exist, pass a constitutional amendment."

Scalia emphasized the importance of the structure of the Constitution. Scalia said the structure purposely makes changes extremely difficult. Showing admiration for the Framers, Scalia noted the five months taken to assemble the Constitution, a feat he said could not pos-

See SCALIA, page 2

You Should Know

By GAVEL STAFF

Your '03-'04 Student Leaders

The 2003-2004 C-M Student Bar Association officers are: **Sasha Markovich**, **president; Brendan Doyle**,**vice president of programming; Michael O'Donnell, vice president of budgeting;** and **David Van Slyke, treasurer**. Elections were held April 1-2. The four incoming officers are 2Ls. The outgoing officers are graduating 3Ls Chris Tucci, Brian Stano and Matt Basinger and 2L Anne Zrenda. SBA senator elections will be held this week for next year's senators.

The *Cleveland State Law Review* elected its 2003-2004 Editor-in-Chief, 2L **George Zilich**. The outgoing Editor-in-Chief is 3L Stacy Cameron. 2L Nathan Wills succeeds 4L Edward Pekarek as the 2003-2004 *Journal of Law and Health* Editor-in-Chief. Both Cameron and Pekarek will graduate in May.

Moot Court has not yet elected the 2003-2004 Board of Governors.

Affirmative action on trial in Supreme Court

By Michael Luby
STAFF WRITER

This month, the United States Supreme Court is hearing oral arguments on two concurrent cases involving issues of affirmative action.

Grutter v. Bollinger and *Gratz v. Bollinger* address the use of racial preferences in admissions polices at the University of Michigan law school and undergraduate colleges. The principal question to be addressed by the Court is whether the use of racial preferences in student admissions violates the Equal Protection Clause of the Fourteenth Amendment.

The Equal Protection Clause of the Fourteenth Amendment provides, in part, that all persons within the United States shall have full and equal benefit of the laws, and no person shall be excluded from participation in, or be denied the benefits, of any program or activity that receives federal financial assistance.

The Court will revisit its 1978 decision in *Regents of the University of California v. Bakke,* which stated that a law school's interest in achieving the educational benefits that come from a diverse student body is compelling, and that its admissions policy is "narrowly tailored" to serve that interest. Michigan argues its policy serves a governmental interest in diversifying the student body through its practices. The university also argues its admissions policy was written to comply with *Bakke,* which colleges have relied on as precedent for years.

The main argument against Michigan's law school policy is its utilization of a point-based system. This awards students 20 points out of a possible 150 for being of any minority race or ethnicity. Many scholars have argued that public policy dictates that continued racial progress cannot be achieved in America with the use of current systems such as Michigan's. C-M Prof. Frederic White said, however, that when a school is only using race as a factor it is cause for alarm. He feels Michigan's position in *Grutter* is strong in that Michigan's policy allows a university to be more selective in admitting students.

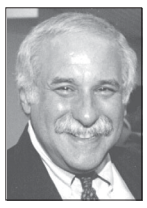
C-M Assistant Dean of Admissions, Melody Stewart, said C-M does not use any form of race-based admissions. C-M will only look at race as one of several factors, including English as a second language and graduate schoolwork, once a student has been established in the "admissible range of students." She stressed that if a student does not meet certain criteria relating to

See ADMISSIONS, page 3

THE GAVEL
Law

C-M plays host to ideological variety

By Steven H. Steinglass



The Dean's Column

We are about to collude two semesters of lectures, conferences, symposia and other events that each year transform the law school into a public forum.

In a happy coincidence, on March 19, the law school was host to visits by two outstanding public figures; a present member of the judicial branch of the federal government and the other a former member of the executive branch of the federal government: U.S. Supreme Court Associate Justice Antonin Scalia and Drew S. Days III, former U.S. Solicitor General under President Clinton. The men were a study in contrasts.

In an open classroom in the Moot Court Room, Scalia taught Prof. James Wilson's and Prof. Stephen Lazarus's Constitutional Law classes. Scalia described, with considerable passion, his reliance on an "originalist" approach in interpreting the Constitution and his struggles with both the text and his conscience in arriving at his decisions. Days, now a Professor of Law at Yale Law School, taught Prof. Susan Becker's and Prof. Jackie Knapman's Civil Procedure classes. Days' mild and reflective teaching manner contrasted sharply with the Justice's.

The following day, Days delivered the 76th C-M Fund Visiting Scholar lecture to a large audience of faculty, staff, students and community members on the challenges faced by the Solicitor General's Office. We were fortunate to have two such notable visitors here, both of national stature and both of vastly different political perspectives, as living proof of the educational contributions diversity of opinion makes in maintaining a free and open society.

If you missed these two presentations, take heart: April is full of opportunities. On April 7 at 5 p.m., the Women's Law Students' Association will present Prof. Arthur Landever in an informal lecture on " 'Hard-Boiled Mary' (a Graduate of C-M's Predecessor, Cleveland Law School) and Other Pioneering Women Lawyers like 'Suitcase Mary,' 'Yellin' Mary,' 'Foul Mouth Flo' and the Cronise Sisters of Tiffin, Ohio."

Buckeye suffers Supreme rout

Unanimous Court rules for Cuyahoga Falls in fair housing case

By Ed Pekarek
NEWS EDITOR

The U.S. Supreme Court decided on March 25 that courts cannot delve into the hearts and minds of voters and city officials when a claimed Equal Protection Clause injury derives only from a construction delay caused by a referendum process. The C-M Fair Housing Clinic represented the respondent, Buckeye Community Hope Foundation. The decision overturned a *per curiam* Sixth Circuit decision and the case was reversed in part, vacated in part, and remanded.

ED PEKAREK - GAVEL

"Freedom from delay in receiving a building permit is not among . . . fundamental liberty interests."

The Court said the tactical decision of jointly agreeing with the city to enjoin certification of the referendum results precluded it from relying on case law that would have otherwise permitted an analysis of voter and city official's intentions. Cases where election results went into effect were "inapposite" because of the distinction, according to the 9-0 holding. Justice Sandra Day O'Connor wrote the opinion and stated, "respondents never articulated a cognizable legal claim."

Buckeye lawyers and C-M adjunt professors Ed Kramer and Diane Citrino, as well as Employment Clinic Prof. Ken Kowalski submitted evidence at trial that suggested racist intent from both city officials and citizens to prevent the building of Pleasant Meadows, a 72 unit moderate income apartment complex. The Court was not persuaded, however, as the election was never certified.

Justice Antonin Scalia wrote an independent opinion with Justice Clarence Thomas concurring. Scalia visited C-M a week prior to the release of the decision (see p. 1). O'Connor also wrote, "in submitting the referendum petition to the public, the city acted pursuant to the requirement of its charter, which sets out a facially neutral petitioning procedure, and the city engineer, in refusing to issue the permits, performed a nondiscretionary, ministerial act consistent with the City Charter."

The Court attacked the overall Buckeye legal strategy as well, noting inconsistency between Buckeye's theories in brief and oral argument. O'Connor wrote, "in their brief to this Court, respondents offer an alternate theory of equal protection liability: that city officials, including the mayor, acted in concert with private citizens to prevent Pleasant Meadows from being built because of the race and family status of its likely residents." O'Connor pointed to the fact that, "Not only did the courts below not directly address this theory of liability, but respondents also appear to have disavowed this claim at oral argument, focusing instead on the denial of the permits."

Kramer argued that the denial of the building permits and the referendum process violated the Due Process Clause because it was arbitrary and capricious and said from the Court steps that it "ask[ed] voters to decide whether the site plan that the voters never saw, conformed with housing codes they never read."

The Court disagreed with the theory, stating, "by adhering to charter procedures, city officials enabled public debate on the referendum to take place, thus advancing significant First Amendment interests." Scalia wrote separately "to observe that, even if there had been arbitrary government conduct, that would not have established the substantive-due-process violation that respondents claim." Scalia also wrote, "freedom from delay in receiving a building permit is not among... fundamental liberty interests."

Buckeye contended the vote was merely the culmination of a racially motivated campaign against the development, calling it a "posse" led by Falls Mayor Don Robart in its brief, which was drafted in part by C-M students. The city maintained it merely followed its charter and allowed citizens to exercise the right to vote on the controversial complex. The Court determined that, "respondents point to no evidence suggesting that these official acts were themselves motivated by racial animus."

The Bush administration also weighed in on the First Amendment aspects of the case, contending free speech far outweighed any alleged violation of Buckeye's rights. The Court agreed and found that merely allowing the vote to transpire was not enough to violate Buckeye's rights. O'Connor wrote, "By placing the referendum on the ballot, the City did not enact the referendum and therefore cannot be said to have given effect to voters' allegedly discriminatory motives for supporting the petition."

Despite evidence adduced that city council members with a wink and a nod circulated literature, sought to declare the site wetlands, urged the City Law Director to find a "legal shred" to deny the development and even the mayor dared Buckeye President Steve Boone to sue in a public meeting. One city council member, Sandy Rubino, even apologized to his constituents before voting for Buckeye's conforming site plan. Nevertheless, the Court did not Believe that Buckeye could "show that the voters' sentiments can be attributed in any way to the state actors against which it has brought suit."

After Robart also facilitated a meeting for opponents of the apartments at a public building, which the Buckeye lawyers argued was essentially state action as an official imprimatur, which eventually led to the referendum. The Court found Robart lacked any culpability because the District Court dismissed the claim against him in his individual capacity and "found no evidence that he orchestrated the referendum."

3L Brendon Kohrs recently purchased a home in Cuyahoga Falls. He suspected that economics, not race, was the likely culprit. "I think the reason the city wanted to avoid having low income housing is so that services would not be depleted for tax paying citizens," Kohrs said.

The complex was completed after the Ohio Supreme Court held 4-3 that votes on administrative issues violate Ohio law.

SCALIA: Defends "textual originalist" theory of interpretation

Continued from page 1--

believe that the framers of the Constitution were much smarter than anyone around today."

During the question and answer portion of his presentation, Scalia fielded questions from students and faculty ranging from slavery to cases currently before the court. In response to the latter, Scalia said, "that would ruin the suspense."

At times, Scalia's answers became a lesson in the Socratic method asking students and faculty to defend their postions.

When asked how his "textual originalist" interpretation meshed with issues like slavery in the Constitution, Scalia defended the Framers, "the framers were not in a position to completely eliminate all of slavery through the Constitution at that time. The document would have been rendered completely illegitimate. The three-fifths compromises existed to punish slave states. As long as states treated slaves as less than human, they could not count not count them, at the same time, as full people for the purposes of representation."

The 67-year-old father of nine addressed religious clauses in the Constitution at John Carroll University March 18. The JCU visit was marked by several student anti-war protesters standing during his opening remarks with "NO WAR" painted on their T-shirts. One protester interrupted Scalia mid-sentence to read an anti-war statement, only to be escorted out, following cheers from the crowd. The Justice also opened the floor at JCU to questions. One student asked, in reference to the Court's opinion in *Bush v. Gore*, "What did it feel like to subvert the will of the people of Florida?" Scalia said, "It felt great." Another student asked Scalia to comment on Affirmative Action in higher education admissions policies, and again the Justice declined due to the University of Michigan's admissions policy cases currently before the Court.

Scalia was a Clevelander from 1961-1967 in private practice with Jones, Day, Cockley and Reavis. Scalia was in Cleveland to accept the Cleveland City Club's Citadel for Free Speech Award. Scalia drew criticism from both the local and national press when he refused access to the media at the City Club event.

Program gives minority students a leg up

By Eric Doeh
STAFF WRITER

The Minority Clerkship Program is an initiative of the Cleveland Bar Association (CBA), in conjunction with both C-M and Case Western Reserve University School of Law.

The program encourages law firms and other legal employers in greater Cleveland to consider a pool of talent that has been ignored, said Judge Ronald Adrine, chairperson.

The program is limited to 1Ls who are defined by the government as minorities—African Americans, Asians, Pacific Islanders, Latinos and Native Americans.

Adrine said that every application, along with a résumé of each of the participants in the clerkship program, is reviewed by the CBA's Minority Outreach Committee to provide participating employers a pool of qualified minority students.

The program encourages participating employers to consider factors other than grades, such as life experience and overcoming adverse backgrounds when making hiring decisions. Nevertheless, employers are free to use whatever criteria they believe they must to assure a good fit before a clerkship position is offered, said Adrine.

The CBA program is distinquishable from other similar programs throughout the country. Unlike the Pledge to Diversity Program in Denver, Colo. involving a coalition of 19 law firms, the Colorado Bar Association, the University of Colorado Law School and the University of Denver College of Law, in which each participating firm agree to hire at least one minority 1L, the CBA's Minority Clerkship Program does not obligate employers to hire anyone interviewed. However, employers who participate agree to interview at least five members from the clerkship pool.

Doeh is a 1L.

ADMISSIONS: Students support Michigan

Continued from page 1--
LSAT and GPA scores, the other factors hold no basis for a determinative decision.

Several Georgetown University law students recently drafted an *amicus curae* brief on behalf of the university. The brief, a joint effort of students, faculty and Equal Justice Works, advocates that diverse enrollment constitutes a compelling governmental interest exposing students to all individuals in the law. When the brief was filed, it had been signed by nearly 14,000 students in 41 states.

Black Law Student Association member Monique McCarthy said affirmative action is not about quotas, but rather provides an opportunity for certain groups of individuals who have not traditionally been well represented in certain fields to gain access to higher education.

According to *Time magazine*, several notable schools, including Massachusetts Institute of Technology and Princeton University have already begun to cut back or eliminate programs previously open only to minority students in anticipation of the pending cases.

PC lab speeds up; Students need to voice concerns

On any given day, computer-related complaints can be herd echoing through the Law Library PC lab.

"At times, Internet connection speeds are at a glacial rate," said 1L Jack Thetgyi. Although complaints like these have been circulating among students, the administration did not know about students' concerns, said Michael Slinger, associate dean and director of the Law Library.

CSU, which controls access to the Internet, knew of the overall problem, due to the large amount of databases placed on the server, but did not know that the connection speed bothered students. Notwithstanding, a project will commence to increase Internet connection speed.

The project will replace the current 10MB shared system with a 100MB switch system. The project is scheduled to begin in late summer and will be completed by the beginning of fall semester. Slinger said that while the connection speed may not be as fast as DSL lines students use at their homes, the connection speed will be "much, much faster than the current system."

Another problem C-M students have encountered with the computer system is slow login times for either the Windows or e-mail systems. To solve this problem, approximately two-thirds of the computers' RAM were recently upgraded from 128 MB to 256 MB. The remaining computers are expected to be upgraded in the near future.

While the upgrade will increase overall speed of individual computers, Slinger urges students to save their documents to the H-drive, as opposed to the desktop, and to clean their e-mail account of unwanted e-mails.

By taking these steps, individuals' profiles will be smaller, will take less time to load, and as a result, the login speed will increase. An added benefit of saving all documents to the H-drive is that the files are backed up regularly, Slinger said.

While the projects to improve speed are planned to begin soon or already underway, Slinger is concerned about students not voicing concerns. "If students do have problems, they need to make the problems known," Slinger said.

"We want to be responsive to students' needs, but first, we need to be aware of these needs, so that we can investigate the problem and take the necessary steps."

Notes in Brief

EMPLOYMENT LAW

April 8 at 5 p.m. the 2003 Duvin, Cahn & Hutton Employment and Labor Law lecturer, Stewart Schwab, will ask "How Hard is It to Win an Employment Discrimination Case? Evidence from Government Data."

CURE FOR GRADE POSTING ILLS EXPECTED

Changes to C-M grade posting policies were proposed to avoid the long delays between exam taking and grade posting. Many students returned to C-M for Spring Semester, not knowing their Fall Semester grades.

"That will never happen again," said Rosyln Perry, records administrator.

Last semester, according to Perry, 11 professors turned in their grades after the exam grading deadline. Perry said she has proposed moving the grading deadline up a week for Spring semester but admits there is little, that she is aware of, to strictly enforce any grade deadline.

Currently, after a student takes an exam, the exam results must pass through four different offices before a grade is posted on the C-M web page. Exams are turned into the records office, then redistributed to professors for grading. Preliminary grades are turned into the records office triggering a list of exam-takers to be sent back to the professors. Final grades are submitted to the Dean of Student Affairs where they are approved or rejected for reformulation.

Once approved, grades are returned to Records which creates a final spread sheet. A file is finally sent to David Genzen for posting on the C-M website. "If any one of these offices does not make grades a priority, a cog in the wheel holds up the whole system," said Perry.

In addition to moving up the grading deadline for professors, Perry said that beginning Spring Semester, all grades will be posted on the C-M website by the Records Office. "This will eliminate any delay in posting once the final grade spreadsheet has been completed."

AFFIRMATIVE ACTION DEBATE

April 14 at 5 p.m. the Federalist Society will sponsor Terrence J. Pell, president of the Center for Individual Rights, and Raymond Vasvari, director of the ACLU of Ohio—two attorneys with opposing viewpoints—will debate the two cases challenging the University of Michigan's affirmative action policy. WCPN's April Baer will moderate.

C-M'S NAMESAKE

April 15 at 5 p.m. Political Science professor, Jean Edward Smith will present the 2003 Joseph C. Hostetler, Baker & Hostetler lecture, "John Marshall, Definer of a Nation."

HONORING OHIO'S 200TH

April 24 and 25 in acknowledgment of the Bicentennial of Ohio's Constitution, Prof. Kevin O'Neill organized a conference on the Ohio Constitution with an opening address April 24 at 5 p.m. by Wisconsin Supreme Court Chief Justice Shirley Abrahamson. The conference continues April 25 at 9 a.m. and features speakers Michael E. Solimine, Barbara Terzian, Jonathan L. Entin and others.

INTERNATIONAL LAW AND IRAQ

April 22 at 12 p.m. Michael Scharf will lecture on "International Legal Aspects of the War in Iraq."

CLASS ACTION SYMPOSIUM

April 30 from 4–6 p.m. Professors Susan Becker and Arthur Landever will present a Symposium on "A Novel Approach to Mass Tort Class Actions: The Billion Dollar Settlement in the Sulzer Artificial Hip and Knee Litigation." Presenters include Kathleen McDonald O'Malley, the judge who presided over the case; Richard F. Scruggs, the plaintiffs' attorney; R. Eric Kennedy, the defendant's attorney and James J. McMonagle, the claims administrator.

Compiled by Jason Smith and Colin Moeller.

BUDGET: Budget cuts cause more C-M belt tightening

Continued from page 1--
in the fiscal year." Plata said CSU has only two significant sources of income: state funding and tuition. "Something has to give," said Plata.

Non-faculty staff positions are currently under a hiring freeze. Soon after the freeze began, a member of the law library's circulation staff resigned. Unable to hire a permanent replacement, C-M received permission to hire a temporary employee until June 30. C-M is awaiting permission to move forward on a permanent hire. Michael J. Slinger, associate dean and director of the Law Library, said, "I don't anticipate this to be a problem."

Dean Steinglass called the decision by the CSU Board of Trustees to raise tuition "regrettable, but not surprising."

"The Board wants to maintain the quality of the programs. The alternative would require a major dismantling of programs," said Steinglass.

Catherine Buzanki, financial aid administrator, said the state budget cuts were primarily absorbed by the tuition increase. "The largest source of funding for the law students is the Stafford Loan," said Buzanski. "The maximum per year a student can borrow is $18,500. Five years ago, 15 percent of the students on financial aid borrowed the maximum amount. This year, so far, 41 percent of the law students on financial aid borrowed the entire $18,500.

"Many students are using the loan money for living expenses, and there's less money available for living expenses since the tuition continues to climb," Buzanski said.

"It is premature to speculate anything about how the state actually will reduce our budget," said Chin Kuo, CSU provost. "We are still very hopeful that [future] cuts will be at a minimum."

But C-M officials remain guarded, implying that the question is not whether future budget cuts are expected, but insstead how deep the inevitable cuts will be.

"We have not yet received any information about our budget cut target for fiscal year '04," Plata said before the increase was announced, "They say no news is good news, but I suspect it is not good."

THE GAVEL Career

April 2003

Knowing what the meaning of the word "is" is.

By Karin Mika
LEGAL WRITING PROFESSOR

Q: English is not my first language and I am having a hard time in my writing class. Is there anything I can do?

A: There probably isn't one person here (sometimes faculty included!) that wouldn't benefit from both basic grammar and composition classes, even as a refresher. When applying to law school, most students are not aware of the level of knowledge about language "nuance" that is required to be successful.

Legal Writing

Natural born speakers have a hard enough time mastering those nuances. English as a Second Language (ESL) students are especially challenged by nuances such as those relating to the use of articles. The difference between using "a" and "the," or even when to write, "a plaintiff," "the plaintiff" or simply "Plaintiff" can be subtle.

Some students use the summer as an opportunity to take English grammar classes at either CSU or a community college. Cuyahoga Community College has a whole series of English as a Second Language classes. If you're more the "study on your own" type, Mark Wojcik from John Marshall Law School in Chicago published a book called "Introduction to Legal English," which was written expressly for ESL students. There is also a beneficial section in "The Legal Writing Handbook" by Oates, Enquist and Kunsch.

The ability to speak or write perfect English has nothing to do with ability to learn legal theories. However, the fact of the matter is that all tests, including the bar exam, are written in English. Thus, anything that can be done to improve that skill will be integral to your success.

As the Scouts say, "Be prepared"

Making a list and checking it twice, before Columbus

COMSTOCK.COM

The Scout motto of 'Be Prepared' was never more appropriately used as for this endurance test.

By Jayne Geneva

When do I need to begin preparing for the Bar exam?

The simple answer to this question is "Yesterday!" Preparation for the Bar examination constitutes more than just studying. Preparation involves an all-encompassing approach involving mind, body, family, time usage, physical comfort and finances.

Intellectual Preparation. You should have begun this when you first came to law school. The required core courses are basics on any bar exam. Yes, the subjects you thought you would just wade through are the ones that you need to know cold. Learn the core curriculum well.

The best mental preparation for the bar is memorizing materials. You must learn to retain or memorize materials. The sooner you do this in your law school career, the less you will have to do upon graduation.

Physical Preparation. Create a study schedule, even while in law school, that permits you to stay healthy. Build in exercise and relaxation time. You will begin immediately to study for the Bar exam once you graduate. Your body will not need to adjust in a major way if you prepare ahead of time. Many students find they are unable to sit for long periods of time to study. Remember: you will be sitting for three days while you take the bar. Every minute that you take to use the restroom, walk around, get a drink or take a smoke break is a minute less you have to write your answers.

Family. It is often difficult for family, significant others and friends to realize that graduation is *not* the end of your professional study. They firmly believe that you are now available to party, to pick up your parenting role again, to become more social. Warn them all ahead of time that you will emerge in August, not June. The first week of August you will become the person they remember.

Time Usage. The Ohio Bar Examination has one of the lowest pass rates in the country. To you, that means you will need significant time to study. Those who can afford to study for the two months of June and July tend to feel fairly confident by the time of the Bar examination. The less time spent studying, the less confident students feel, and the Bar *does* have a psychological element to it. Many students do not feel they will need more than a week or two, or have been told so by well-meaning lawyers who took the Bar long ago. You will realize your mistake once you begin to study and by then it will be too late to rectify the situation.

Physical Comfort. Choose where you want to stay in Columbus, not according to where your friends are going to be, but according to your desires and means. You will not have time to party during this test. Do you want to walk over the bridge to the exam? Do you want to drive? What type of place will your budget afford?

The Ohio Bar Examination is given in the Veteran's Memorial Hall in Columbus. This is a huge open space where 1,500 or so would-be lawyers are seated at long tables, one person on each end on opposite sides of the table. The chairs are folding metal chairs—you know, the uncomfortable ones they add at events when seating has run out. Take a pillow to sit on. Dress in layers that can be added or removed; the temperature is either hot or cold in this cavern. Take peppermints to keep you awake and add sugar to your system when your energy level runs low. Take lots of sharp pencils or mechanical pencils. Redundancy is good—you cannot rely on only one of anything. Plan to take your lunch with you.

You need to plan all of these things *prior* to going to Columbus. The Scout motto of "Be Prepared" was never more appropriately used as for this endurance test.

Finances. One of the most pressing needs and therefore the one that may need the most preparation for taking the Bar is money. Bar review courses are available from many sources for over a thousand dollars each. You will also have to send money with your application to take the Ohio Bar: $200 or more, depending on when you apply and if you need to pay late fees. You must also consider lodging, meals and transportation costs.

Most of all, you must consider the cost of the time you need to study. You may need to take unpaid leave from work in addition to whatever vacation time you have accrued. Most students have determined that all of these costs add up to between $2,500 and $3,000 for the exam.

Begin preparing for The Bar as early as possible to free your mind when you need to be concentrating on learning. You must take a long-range view of the Bar exam. Preparation equals confidence in all aspects of this endeavor, and confidence is crucial for this final law test.

Geneva '87, is director of the Office of Career Planning.

Law school deans question *U.S. News* rankings

By Christopher Friedenberg
STAFF WRITER

U.S. News and World Report will releases its annual rankings of professional and graduate schools April 7.

C-M usually ranks in the third tier of the news magazine's influential and controversial rating system. But a majority of deans of the nation's law schools contend the system is "inherently flawed."

In a letter endorsed by Dean Steinglass and 163 other deans of American Bar Association accredited law schools, prospective students are urged "to minimize the influence of ranking on your own judgment."

Jayne Geneva, director of the office of career planning, said she is skeptical that the rankings affect an employer's hiring choices. With some firms, "it is more a matter of Ivy League versus Ivy League that makes the difference.

"Second, third or fourth tier seldom matters. Most employers are not that cognizant of the school's tier placement when they review résumés."

Citing a 95.1 percent employment placement rate for class of 2002 in February, Geneva stressed that much of the "reputation of the law school" in the *U.S. News* rankings has "nothing to do with the actual quality of the school. More likely, people know the school because of their medical school or football team. Not having either, C-M is not in that league."

U.S. News bases 40 percent of each ranking on a reputation survey sent to selected academics, judges and practitioners. The American Association of Law Schools (AALS) has sharply rebuked the validity of that survey, holding that "no reputational survey can be valid because no one knows a sufficient amount about the nation's law schools to rank even a small number of them, much less all law schools." The AALS, which represents nearly all ABA-accredited law schools, suggested "that all recipients of the survey seriously consider whether it is appropriate for them to respond to it."

Prof. Frederic White, who has responded to previous surveys, characterized the reputational basis of the rankings as "unscientific."

"The form itself is crap," White said, "it invites the response to trash every school except your own and your alma mater."

White suggested that C-M should try "to be the best school it could be without trying to be Yale or Michigan." For one thing, White said, C-M doesn't have the same financial resources to compete. White, a Columbia Law alumni, noted, "I would pit my best students against any law student from any school."

Outgoing SBA chief bids fond farewell

By Chris Tucci
SBA PRESIDENT

SBA officer elections this year were nothing short of heated. Regarding the four positions that were available, here is the breakdown: four students ran for President; four students ran for Vice President of Programming; seven students ran for Vice President of Budgeting; and three students ran for Treasurer.

Voting turnout for the first day was a record! After the polls closed at 8 p.m., well over 200 students had already voted. Congratulations to all the officer candidates for their great campaigning which was a big reason why we had a record turnout. Also, congratulations to the newly elected 2003-2004 SBA officers.

In closing, I wanted to take this opportunity to briefly thank every student on behalf of the entire SBA for allowing us the opportunity to serve the entire student body. Personally, I feel this was a great year for activities and fundraisers from all the student organizations.

Also, despite this being a very busy year for me, I truly enjoyed my position as SBA President and will greatly miss it after I depart.

Thank you again and good luck to everyone in the years to come!

Moot Court continues success

By Renee Davis
MOOT COURT CHAIR

C-M's Moot Court program sent two teams to Washington, D.C. to participate in the American Bar Association Competition. The team consisting of 2Ls Susan Parker, Dean Williams and Bryan Kostura had a competition record of two wins and one loss.

The other ABA team consisting of 2Ls Brendan Doyle, Christos Georgalis, and Siegmund Fuchs, placed third in the region with a 5-0 record and advanced to the National competition in Chicago this week. The team also received best brief honors and Fuchs placed seventh out of 90 oralists.

Gooooood morning, Baghdad!

The Reality of War in 24/7 News Coverage America

The embedded reporters may bring America inside Iraq, but the view is an obstructed one. War is much bigger than the lens of any one camera or the sightlines of any one reporter.

The cast of characters includes news anchors, embedded journalists, a host of political pundits and retired military generals, scientists, engineers, pollsters, former CIA directors, 3-D maps, graphs, videophones, night vision lenses and even special mine-seeking dolphins. Those who wish, can turn it on at any hour of the day and watch it…live. Never before has war been so vivid and so "real" in American living rooms.

In World War II, newsreels, which like movie previews today, preceeded feature films, served the purpose of hammering home positive headlines. Vietnam brought Americans even closer to war as taped images of napalm, dense jungle skirmishes, protests, impoverished Vietnamese civilians and defeated American troops accompanied the network news. Still to come was American's closest encounter with war in 1991 when the skies of Baghdad lit up with steaks blue and green flashes signaling the beginning of the first Gulf War. With each engagement the American media has tried harder and harder to capture the "reality" of war. With the current war in Iraq the media has promised an "all access pass to the war."

The Gavel
Editorial Opinion

The Bush Administration said Saddam Hussein's regime would be stricken with "shock and awe." The major news networks promised Americans realtime viewing of the destruction. It took coalition forces three days after the first bunker buster hit to deliver, but jaws dropped as portions of the Baghdad skyline crumbled like dominoes.

We probably should be worried about terrorist backlash, Middle East unrest, scud attacks, retaliation or growing resentment against the United States around the globe. Our minds, however, are locked on what has developed into a grand production, made all the more visually stunning by 3-D maps, satellite images and camera shots of precision bombs cleanly hitting their targets.

Cue…ground forces. Again Americans were promised "access to the action," and again have not been let down. Suited up in fatigues, made distinguishable from the troops via blue vests, embedded journalists keep viewers connected with live reports from…well…they can't say. Their presence is unprecedented and their access, a potential anecdote for the "Vietnam Syndrome" that still runs deeply through a nation compelled to second guess the decisions of its government.

We hang on their reports. Each night, we base our opinions of the war on what they have to tell us. If a specific journalist reports resistance, the war is not moving at the pace we expected. If another reports slow delivery of supplies, the U.S. was not as prepared as it expected for this war. If NBC correspondent David Bloom tells us from atop his Bradley vehicle that the third infantry division is stalled, we cringe, the Dow Jones falls and the press corps gets antsy. There are reports of resistance, sandstorms, casualties, prisoners of war, friendly fire and fratricide. With these reports there is talk of miscalculation and a need to redraw battle plans.

We thought we understood the mission…but this is not it. How can the Pentagon be correct when it tells us we are advancing, when Wolf Blitzer says there is "fierce fighting and resistance?"

The embedded reporters may bring America inside Iraq, but the view is an obstructed one. War is much bigger than the lens of any one camera or the sightlines of any one reporter. No matter how close a camera gets to the action, or how informed a reporter may be on the mission of his or her division, they can only share a small, microcosmic piece of a massive operation. From this we can hardly expect to understand the reality of the bigger picture.

While this conflict is broadcast in realtime, the confines of war result in a surreal broadcast, relying more on perceptions of the reporters, than the big picture.

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C-M provides Bar survivor skills

This past February, I had the privileged punishment (or punishing privilege) of sitting for the bar exam.

Everything I had heard and had been told about the Bar was true, multiplied times four. Yes, it really was necessary to study seven days a week for the six weeks prior to the exam.

Yes, all the elements for all the torts, not just the intentional ones, and for all the crimes, even the inchoate crimes, had to be committed to memory.

Yes, unless perhaps the applicant is a natural born genius, the MBE was sadistically horrific. None of the 2200 PMBR practice questions are anywhere near as exactingly difficult as those faced by the applicant.

The exam was brutal. I flubbed up two essays but also had a big surprise; a Corporations essay question. I had gone to Columbus praying that Corporations would not be tested, but left the exam feeling grateful that it had.

I did not do well in Corporations at C-M – all that stated capital, debt equity and watered stock. Prof. Dougherty did her best to liven up the corporate structure (can preemptive rights ever be lively?). Then abruptly, six weeks into the course, she began lecturing on the duty of loyalty and duty of care.

Corporations suddenly became an energized legal philosophy class about right and wrong.

Fast forward to the bar ; a Corporations essay popped up. The topic was duty of loyalty and duty of care. Sitting at that table in Columbus, I knew the subject cold.

Beating the Bar's "Grim" by reaping benefits from C-M profs.

By Jaqueline Tresl

Thanks to Prof. Dougherty I even knew the nuances of the duty of loyalty and the duty of care. I filled my paper front and back and wished for more space.

I had also been dreading the Constitutional Law essay. Prof. O'Neill had been the lecturer for my review lecture on Con Law. He created the 140-page Con Law outline. It was so much more than an outline, however. It gave the applicant multidimensional ways of thinking about Con Law, in a manner that would likely please the bar examiners. Because Con Law was not my strongest subject, I did my best to memorize O'Neill's outline — not just the fundamental rights and balancing tests – but almost more importantly, his critical thinking and analysis parts.

O'Neill had stressed in his outline: if you see a right to travel question, since–*Saenz*, forget about equal protection and only, only, only apply the Privileges and Immunities Clause of the Fourteenth Amendment. His outline so strongly stressed *Saenz* that I took the time to actually read the case. Low and behold, an essay whose fact pattern was taken right from the fact pattern of *Saenz* popped up. But for O'Neill's red flagging of *Saenz*, I would not have known the nuanced Con Law answer involving right to travel and would have applied equal protection.

C-M should be so proud of its professors. They are outstanding in so many ways. Including, but not limited to, the tremendous impact the C-M professors will have during the 3-day mental torture, known as The Bar, that awaits all law school graduates.

Jaqueline Tresl graduated from C-M in December 2002.

Elation and depression as the end of First Year nears

The following is the fifth in a six-part series following a first year C-M student from orientation to spring exams.

Time flies when you are having fun. While this popular saying may sum up some 1Ls' views, I propose a new version. Time flies when you are going through hell.

We are now approaching final exams for the second semester. Where has all the time gone? The first semester went by quickly, but the second semester is going by even faster. I guess it is time to start (for those of us who failed to follow our original goals of keeping up with outlines this semester) preparing for final exams once again.

1L

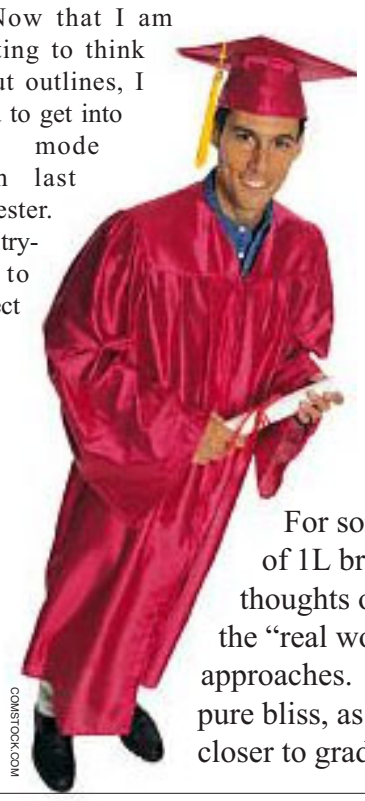
First Year Life Part V

This semester, preparing the outlines and studying for exams will be more of a challenge. It seems that there is a greater amount of material in each class. Coupled with this, I have entered into a bit of a slump. The four-hour break between classes is getting used less for schoolwork and more for catching up on sleep and enjoying the spring weather.

I have kept up with the reading and have been prepared for each class (ok, there have been some classes when I was not prepared and prayed that I would not get called on). Even so, the fear of the Socratic method is long gone and I can usually work my way through it without looking like a complete idiot.

However, the saying "no one briefs second semester" is becoming apparent and the norm. The use of canned briefs has become more common for me. If I do brief cases on my own, they seem to be getting shorter and shorter.

Now that I am starting to think about outlines, I need to get into my mode from last semester. I am trying to collect a number of sources for each class, including commercial outlines, outlines from previous students, outlines from the Internet and my poorly organized class notes.



For some, the end of 1L brings thoughts of dread as the "real world" fast approaches. For others, pure bliss, as it's one step closer to graduation.

Once I've gathered everything, I am going to go through each of them thoroughly and try to compose my own outline. Hopefully, this process will start soon, and I can ignore the golf courses calling my name. On the other hand, I can always do what I did last semester and wait until the last minute. It seemed to work last semester, why mess with a good thing?

As we prepare for exams and look forward to completing our first year, there are two ways that one can view our 1L experiences. The first is an optimistic view. We are almost one third of the way through law school and, based on how quickly first year went, the real world is approaching fast.

The second is a pessimistic view. While the first year went by quickly, we still are not even half way done. Now that the excitement of a new experience is behind us, the next two years may crawl by at a snail's pace. The real world, and accompanying real money, is not approaching fast enough.

Scalia unleashes "textual originalist" arsenal

By Grant Monachino
GAVEL COLUMNIST

United States Supreme Court Justice Antonin Scalia came to C-M Wednesday, March 19, with a full arsenal of rebuttals and colorful responses for a crowd of eager students, administrators and professors. For many people, including myself, this was the first time they had seen a Supreme Court Justice in person, and did not know what to expect.

If you were lucky enough to have attended, it is needless to say that what transpired was well worth the early morning start. Around 9 a.m., 67-year-old *J.* Scalia seemed to almost hobble into the Moot Court Room. During the lecture portion of the event, Scalia's voice would fade in and out, sometimes even inaudible to people in the upper portions of the room, as he discussed the importance of constitutional structure and the "textual originalist" theory of interpretation, the theory he says is the only "theory" of constitutional interpretation, and that he abides by when deciding issues on the bench. Although it had been foreshadowed to me that Scalia could be a blunt and unnerving speaker when answering question, I had little idea of what the crowd would be subject to next.

As the question and answer portion began, Scalia systematically and precisely engaged the questions posed by students, administrators and professors. His once, almost inaudible voice, became vigorous and commanding. He rebutted questions, corrected misquotes, denied statements, slipped in subtle critiques and digs and flat out dissed students and professors alike. At times, he interrupted professors and students mid-question. At other times he answered questions Socratic-style, with questions of his own. Like Shaq pivoting for a two-handed slam, he would not be denied.

After he left, students and faculty chattered with one another about what they had just witnessed. Some were awestruck, others were upset, some agreed and many did not. As the day progressed, many places I went in the law school, I observed previous onlookers justifying Scalia's views or their own, explaining the Justice's shortcomings or critiquing his abrasive manner of speaking.

Whether you agree with Scalia or not, it was a privilege and great opportunity to have someone of his caliber and stature visit C-M. At the very least, whoever left the Moot Court room that Wednesday could not say they weren't entertained.