

## Justice's Helping Hand



A C-M alum shares how a judicial clerkship is not only a valuable experience, but an opportunity to share in a historical tradition.

CAREER, PAGE 4

## Ohio's Wild Wild West

Ohio's concealed-carry law gives the freedom to carry a gun, but severely restricts where guns are permitted. Turns out that pepper spray and stun guns are a better option.

OPINION, PAGE 6



## Are You Kidding Me?

Mario Lopez to attend C-M? Full-time food service returns? Book thefts reported in the library? Turn to the special insert for the latest breaking news at C-M.

SPECIAL INSERT



# THE GAVEL

VOLUME 52, ISSUE 6 MAY 2004

THE STUDENT NEWSPAPER AT CLEVELAND-MARSHALL COLLEGE OF LAW

## Exam policy altered

By Michael Luby

STAFF WRITER

At a meeting on Thursday, March 25, the C-M faculty adopted a new final exam policy. The policy allows rescheduling of certain final exams provided a student is faced with multiple examinations "scheduled within a limited period of time," said Assistant Dean Jean Lifter.

According to Associate Dean Jack Guttenberg, any student who is required to take three or more final examinations within two consecutive days may notify Dean Lifter of their examination schedule and request a change. The date for the new exam is set by the dean but will always be subsequent to the original examination date and time.

The SBA lobbied for a similar policy in September, which would allow students to reschedule an exam when that student had two or more exams scheduled on the same day. Because several students had voiced concerns over

See **POLICY**, page 2



Amanda Park/Gavel

## State senator takes up tuition fight

State Sen. Eric Fingerhut appeared at Cleveland State University on April 1 to rally against the Ohio legislature's recent decisions to cut funding to higher education. Recently, the CSU Board of Trustees approved a 9.86 percent tuition increase at CSU.

Additionally, the board of trustees approved increases in tuition at the college of business, college of urban planning and college of law.

The board of trustees blamed state funding cuts for its decision.

Turn to page 3 for more.

## SBA election outcome challenged

By Jason Smith

MANAGING EDITOR

On April 21, the Cleveland-Marshall College of Law 2004 Student Bar Association (SBA) officer election results were tabulated and announced amid controversy. The winning candidates and resulting SBA officers for the 2004-2005 school year are as follows: Edward Hastie, 2L, president; John Storey, 3L, vice president of programming; Nick DeSantis, 2L, vice president of budgeting; and Norm Schroth, 2L, treasurer.

The election process did not go as smoothly as elections in the past. On April 17, Michele Hyndman, 2L, a candidate for vice president of programming, filed a complaint against Hastie, Schroth, Storey and DeSantis. On Tuesday, April 20, Terry Billups, a candidate for SBA president, filed complaints against both Hastie and Schroth. All complaints were filed with the Election Ombudsman, Stephen Nowak, 3L.

The complaints focused on emails sent out several days prior to the officially designated start of campaigning. Hastie and Schroth sent approximately 80 emails, combined, regarding the candidacy of their election ticket, to students before the official start of campaigning, as laid out in the Election Bylaws of the SBA (Bylaws).

According to section one of the Bylaws, "no potential candidate may begin to campaign until he or she has signed [an] acknowledgment" stating "that the candidate agrees to abide by [the election] bylaws." Section seven states, "no signs may be posted or emails messages sent any earlier than 1:00 p.m. on the Sunday prior to elections." Hastie and Schroth sent their email on April 13 and April 15, respectively, before the official start of campaigning on April 18 or before signing and turning in their acknowledgment.

Billups said, "These violations See **ELECTIONS**, page 5



## February 2004 bar results

	1st Time	Overall
Capital	48%	35%
CWRU	70%	61%
C-M	58%	43%
Ohio Northern	50%	19%
Ohio State	80%	68%
Akron	92%	75%
Cincinnati	75%	76%
Dayton	69%	50%
Toledo	89%	56%

Out of 547 applicants, 52 percent received passing scores. Out of 238 first-time applicants, 72 percent received passing scores.

For the 2003 February Bar Exam, 59 percent of C-M first time takers passed with an overall passage rate of 53 percent.

## C-M reclaims third tier ranking

By Colin Moeller

EDITOR-IN-CHIEF

*U.S. News and World Report's* annual best law schools rankings have been released for 2005 placing C-M back into its previously held third-tier position. C-M slipped from its third tier perch last year, when the annual rankings deposited C-M into the fourth tier.

"Obviously, we are very pleased that our law school is back in the third tier," said Dean Steven Steinglass. "Although we feel the ranking is incomplete in that they do not consider a lot of things we feel are important to a good law school education, it is always nice to see that the law school has improved."

C-M was not the only Ohio law school to see its ranking improve. The University of Toledo School of Law, a perennial third tier school,

now finds itself ranked among the top 100 law schools in the country. "We are obviously thrilled to see that the continued improvements Toledo has been making are being noticed nation-wide," said Carol Frenndt, assistant dean of admissions at Toledo. Frenndt said she also credits Toledo's ability to select from a more competitive pool of applicants for the schools improved ranking, in light of the weak economy.

Case Western Reserve University, Ohio State University and the University of Cincinnati held on to their top 100 rankings while the University of Akron slipped to the fourth tier, joining Capital University and Ohio Northern.

*U.S. News* uses 12 factors to make its annual evaluation of law schools. Two of these factors (ratings by academics and ratings by lawyers and judges) involve sub-

jective judgments of school quality and comprise nearly 40 percent of a school's overall ranking.

The other factors are based on the school's median LSAT score for beginning students and its bar passage rate.

Undergraduate GPA's and LSAT scores, along with a school's acceptance rate, comprise 25 percent of the final ranking. Although part-time students at C-M tend to have higher numbers in these categories than full-time day students, the *U.S. News* rankings do not include numbers of part-time students.

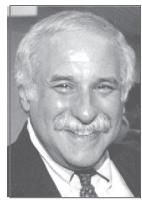
Resources per student also to account for 15 percent of an overall ranking. The number represents resources based on the average of 2002-2003 expenditures per student for instruction, library and support services, student/faculty

See **RANKINGS**, page 4

## With gratitude to, and for, each of you

By Steven H. Steinglass

This is my final *Gavel* column of the 2003-04 school year. For our students, it has been a productive year. We congratulate the outstanding Moot Court Teams who traveled all over the country in a public demonstration of the strengths of a C-M education. We congratulate our editorial boards, who edited and published this year's issues of the *Law Review* and the *Journal of Law and Health*, and the members of all our student organizations who practice the commitment to one another and to the community that will serve our region and country well in the future.



### The Dean's Column

Lastly, we congratulate the many Dean's List students, in whose academic accomplishments we take pride. Whether you have completed your first year or your final year of law school, I urge you, over the summer, to keep up the school-year momentum: study hard and continue to work hard at learning your profession.

Let every project you undertake be another lesson in becoming a lawyer, an investigation into looking at life as an attorney would, whether you are working within the profession as a law clerk or in one of our invaluable, but unpaid, externship positions or outside the profession in the many occupations that support our law students.

Think always of yourself as an attorney-in-training, as someone on whom the world will count, towards whom your community will turn for the wisdom and knowledge to make the right choice. That is the role of our learned profession: no matter how you use your law degree, you will always be servants of the Constitution and the public.

Your teachers will also be spending their summers productively in study and research and developing new teaching skills. Faculty, administrators and staff will spend the months ahead planning the coming year's lectures, conferences and special events so our new and returning students will be welcomed into what I think of as a school without walls, a law school that invites the country's most influential legal practitioners and scholars from many disciplines to speak to the entire university, to the profession and to the community.

This May, we say goodbye—not for too long, we hope—to the women and men who have spent the last three or four years of their lives with us. For us, it is always a bittersweet month because we are parting with students and friends who have become as essential to our own daily lives as law school is to theirs. It is also a time of gladness for us because we are confident that we have educated the kinds of citizen-lawyers our world needs and who will make us proud to have been involved in their lives.

## Ohio permanently bars applicant

By Jason Smith  
MANAGING EDITOR

"Students need to take the bar application process seriously. While not all inaccurate statements will result in disciplinary action, students should not put themselves in a position where all the hard work [of law school] is thrown away," said Stephen Lazarus, C-M professor of professional responsibility.

On April 14, 2004, in the case of *In re Application of Cvammen*, the Supreme Court of Ohio, by a four to three vote permanently denied a recent law school graduate admission to the practice of law in the state of Ohio.

Applicant, Bradford Scott Cvammen, graduated in the spring of 2003 from the University of Akron School of Law and applied to take the July 2003 Bar Exam. Cvammen worked full-time for a real estate company previ-

ous to and while attending law school. While working for the real estate company, a tenant paid Cvammen \$5,000 for helping the tenant find a party willing to take assignment of tenant's lease. Cvammen accepted the payment without disclosing the income to his employer or the IRS.

Because of a fear that the payment may be revealed in subsequent litigation, Cvammen eventually disclosed the payment to his employer. After disclosure of the payment and discussion among the company's board of directors and officers, the real estate company asked for Cvammen's resignation.

On the bar application, Cvammen responded, in part, that he had been asked to resign because he "earned a sum of money for finding a buyer" and that such practice was not "uncustomary in the industry." Cvammen also stated his forced resignation was the result of a "political" decision of a major shareholder and board member.

After Cvammen interviewed with members of the Akron Bar Association Admissions Committee, who recommended his candidacy be disapproved temporarily, Cvammen appealed to a panel in which he presented various character references as well as his own testimony.

One character reference,

a judge in the Summit County Court of Common Pleas, assured the panel of Cvammen's integrity. The judge indicated that Cvammen "consistently acted in manner demonstrating his contribution...accepted responsibility for his mistakes and [had a] commitment never to repeat those improprieties."

Cvammen's former employers also assured the panel of

*While not all acts of dishonesty are discovered, when such activity is discovered, the court likes to make an example of the individual.*

applicant's high moral and ethical character. In the applicant's own testimony before the panel, he "emotionally conceded his wrongdoing, apologized and promised never to repeat his transgressions." Cvammen also proved that after he had received notice of his bar application disapproval, he amended his tax returns to declare the \$5,000 payment as income.

The Board of Commissioners on Character and Fitness adopted the panel's findings and recommended that Cvammen's application be disapproved, but that he be permitted to reapply for admission in anticipation of taking the February 2005 Bar Exam.

Cvammen subsequently appealed this decision by the

board to the Ohio Supreme Court. The court, rather than "merely postpon[ing]" applicants bar application, permanently denied Cvammen from admission to the practice of law in Ohio.

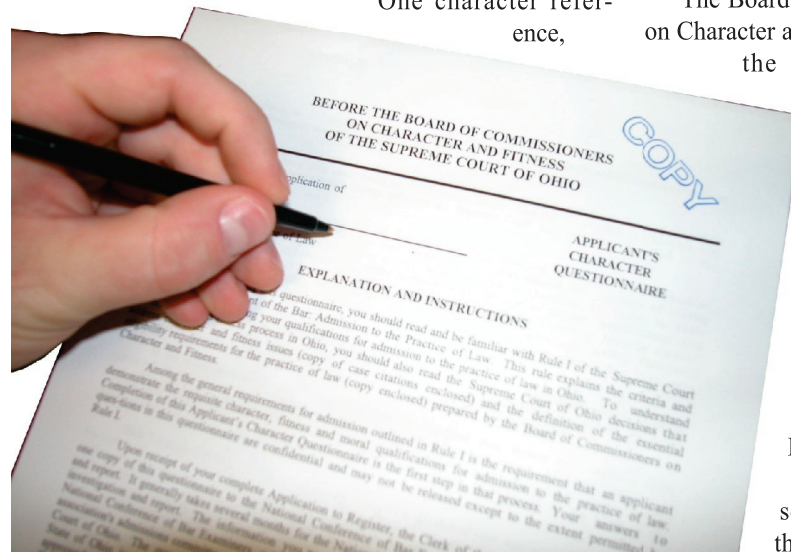
The court concluded that Cvammen "consistently exhibited duplicitous behavior" and "attempted to conceal the extent of his wrongdoing through evasive responses to legitimate questions." Furthermore, "applicant's false or incomplete answers on his application and in his interview and his continued attempts to avoid the truth in his testimony confirm for us...that the applicant lacks integrity," reasoned the court.

Three justices dissented, stating, "[Cvammen] ought to be given a chance to rehabilitate himself and then be permitted to apply again for admission to the bar." The dissenting opinion said that had Cvammen "committed similar acts after becoming an attorney, we would have given him at most an indefinite suspension and permitted him later to demonstrate the he had rehabilitated himself before rejoining the bar."

Lazarus said, "While it is a strict decision, it is not surprising for the supreme court to hand down such a harsh sentence. While not all acts of dishonesty are discovered, when such activity is discovered, the court likes to make an example of the individual."

There is so much that the board can discover about a person, either during the application process or after the process is complete, said Lazarus. The best way to approach the questions on the bar application is to "think about each question and error on the side of full disclosure," added Lazarus.

"While most people have some sort of past activity that they may not be proud of, usually if the applicant comes clean on the application and expresses remorse about the activity during the interview, everything will turn out fine," said Lazarus.



### POLICY

continued from page 1--

having multiple exams in a short period of time, Markovic agreed to look into it. After some research, Markovic said he discovered that no other law school in Ohio gave more than one exam per day. According to Prof. Stephen Werber, head of the C-M academic affairs committee, Markovic wrote an email pointing out some of the situations students faced and the information he received from other Ohio law schools.

The academic affairs committee reviewed the information and recommended the new policy. Werber said, "The committee believed [the new policy] was fair to students and was an appropriate modification to protect the gross situations of certain individuals."

The committee also discussed a proposal prohibiting more than one exam in a

day, but it received little support. According to Werber, the committee believed significant time lapse between exams prevented students from sustaining prejudice in those situations. Markovic said he believes that any policy should allow students to reschedule if more than one exam is scheduled for the same day.

Markovic said, in a market where students are competing directly with students at Case Western Reserve University School of Law for jobs, C-M students are at a disadvantage. Students from C-M are subject to a more stringent curve, can have two exams in one day and have a harsher pass/fail policy. Markovic said, "No one [faculty and administration] has ever given a legitimate reason why we cannot change that policy other than the faculty won't approve it." Markovic stressed this reason is illogical and the faculty and administration do not understand the situation. "The ad-

ministration talks about how we don't have money to facilitate changes and the faculty is here for the betterment of students, but a final exam policy, similar to other Ohio law schools, could easily be achieved without any budgetary concerns," said Markovic.

Guttenberg said some students do not have choices in the classes they take and it does not make sense to penalize them via final examination scheduling. "The reality is students come up with a number of things and there should be a dialogue between students and faculty respectively [so that changes may be made]," Guttenberg said.

Student opinion on the new policy varies. George Zilich, 3L, said "It's a step in the right direction."

Markovic said, "When you look at a problem for so long, you want a new perspective, you want to know what the weaknesses in your argument are, and so far the faculty has not done that."

# CSU Board of Trustees approves tuition jump

By Eric Doeh

ASSOCIATE EDITOR

The Cleveland State Board of Trustees approved yet another tuition increase. According to Timothy Long, director of the office of budget at CSU, the new tuition hike will result in a 9.86 percent increase in tuition fees for undergraduates, a 9.82 percent increase for graduate students and a 9.97 percent increase for law students.

The undergraduate percentage was calculated according to the Ohio Board of Regents (OBOR) Tuition Cap Calculation that imposes a limit of six percent (nine percent for The Ohio State University) on annual increases of in-state instructional and general fees at state institutions of higher education. OBOR allows institutions to increase fees an additional 3.9 percent if the increase is used exclusively to fund scholarships for low-income students or for technology services to students.

Currently, OBOR does not have a cap for tuition increases for graduate and law students. According to Long, C-M students can expect to see a \$1,105 tuition increase for the 2004-2005 academic school year, while graduate students can expect an increase of \$806. Long said C-M students planning on taking summer classes can expect to pay \$472 per credit hour, as opposed to \$446 they paid during the fall.

Mark Merims, 1L, said, "I am concerned about the tuition increase. As a part-time student, working full-time, with a family to support, every dollar is important."

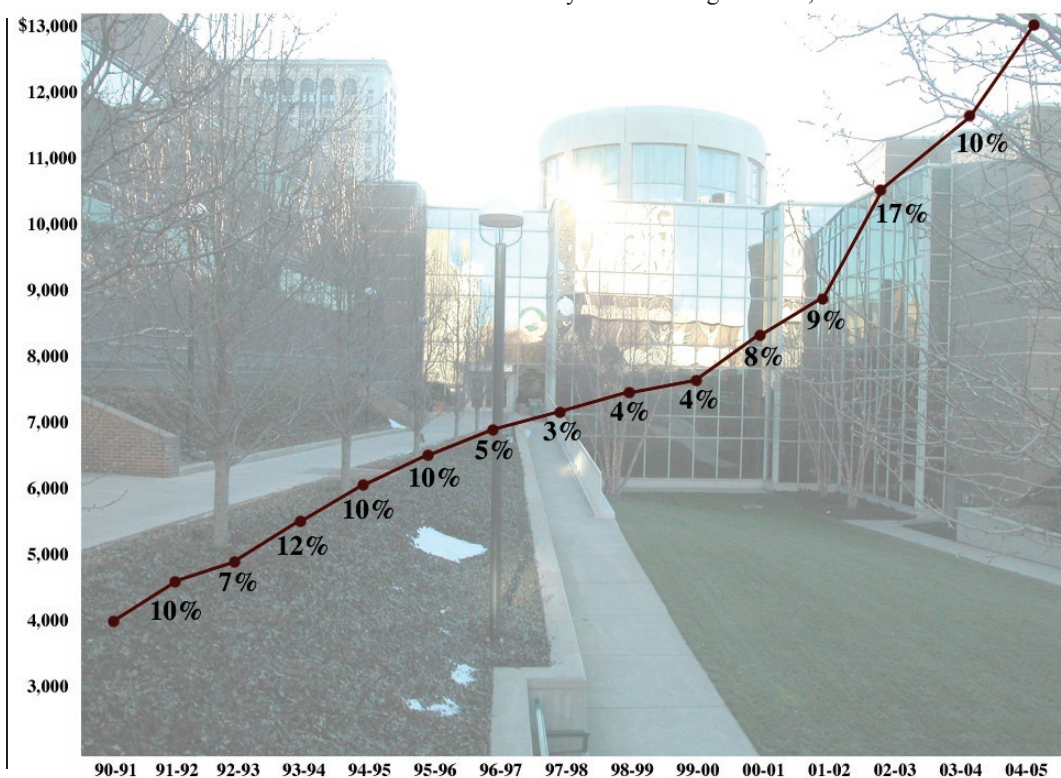
According to Long, in fiscal year 2000, state support provided about 50 percent of total revenue and student tuition provided almost 45 percent. Long said that in fiscal year 2005, it is estimated that state support will provide 36 percent of revenue, while student tuition will supply about 58 per-

cent of total revenue.

Long said, "State support has declined because of significant fall-off in state income tax revenue as a result of the economic recession and no re-adjustment in priorities in the state legislature to help fund education even in the face of declining revenue."

Inga Laurent, 2L, said, "While I understand that sometimes additional funding is necessary to keep the school running, I often feel as if we are not the beneficiaries of the money we are putting out."

C-M's 2003-04 in-state tuition



The tuition hike will result in a 9.86 percent increase for undergraduates, a 9.82 percent increase for graduate students and a 9.97 percent increase for law students, according to CSU officials.

of \$11,648 still remains one of the lowest among Ohio public law schools. Ohio State University Moritz College of Law tuition is \$13,095 and the University of Toledo School of Law tuition is \$11,612.

Jack Boyle, vice president for business affairs and finance at CSU, said that beginning July 1,

2004, all of the law school tuition and state subsidy for students will be allocated entirely to the law school. Boyle said, "The law school has always had the lowest income to expense ratio of the colleges, so it has always been in a position where the university subsidizes the law school."

Boyle said, "Since state subsidy has been declining every year, CSU has no choice but to raise tuition or cut expenses or both."

When asked as to whether the recent increase in tuition will have an effect on next year's entering

private law schools and lower than some of the public law schools."

At the CSU Board of Trustees meeting, several SBA members, including SBA President Sasha Markovic, said there have been tuition increases every semester since the fall of 2001, yet the law school has lost faculty, staff, library hours and food service.

Markovic said that at the board meeting, Trustee David Hill loudly and vehemently opposed the tuition increase as it pertained to law students. According to Markovic, Hill said that because law

to attend the board meeting.

Steinglass, who said he was under no obligation to be at the board meeting said, "it is regrettable that CSU and other universities are in a position in which they must raise tuition higher than they would prefer in order to maintain program quality."

Steinglass said, "The fault, however, lies not with the universities but with the lack of a strong financial commitment to higher education in the state of Ohio."

Katherine Deboer, 2L, said, "I would like to have an accounting of where this money is going."

Long said, "I would like to be able to demonstrate that the tuition increase provides dramatic enhancements in services for our students, but unfortunately, when the university has lost the level of revenue we have due to cuts in state support, we are utilizing the increased tuition to maintain our academic and instructional programs while reducing costs where appropriate."

"I fully understand that students would wonder what additional services or improvements are accruing to them as a result of paying higher prices, but in a way, the students benefit because the university is still able to keep its academic mission on track," Long said.

U.S. Senate candidate Eric Fingerhut, at an April 1 rally at CSU, said, "it is time for us to stop settling for leaders who ignore the value for education."

Fingerhut said he plans to make student loans fully tax deductible and to create a federal/state partnership to help drive the cost of tuition down.

CSU is not alone when it comes to tuition increases. This year, the University of Cincinnati and the University of Toledo have increased tuition by 9.9 percent. The Ohio State University has increased its tuition by nine percent and Youngstown State has approved an eight percent increase.

## Scholarship funds continue to rise for returning students

By Jason Smith

MANAGING EDITOR

Although new scholarships to returning students have increased in recent years, the majority of scholarship money available is used to attract incoming students rather than reward returning students with high academic achievement.

"Dean Steinglass has recognized the need to reward continuing students who did not qualify for scholarship money as incoming law students," said Catherine Buzanski, financial aid administrator. "The dean has been an amazing fundraiser, and as a result, new scholarships are being created all the time."

Melody Stewart, assistant dean for admissions, also cited Steinglass's ability to solicit donations and raise money as a reason why more scholarship money is available.

The Marshall Scholarship is an example of a newly created scholarship awarded to continuing students with high academic achievement during their first year at C-M. The scholarship, a \$2,000 award, is given

to students entering their second year. According to Buzanski, "This scholarship is distributed by simply going down the class rankings and giving the award to the top five students who did not receive a scholarship as entering students."

Often, several students may receive multiple scholarships and fail to get the total amount of the sum of the combined scholarships. Buzanski said, "The giving of double scholarships is not to save money for C-M and it is not done to be deceitful to the students." Rather, according to Buzanski, "There is a certain amount of money available in each scholarship fund and for scholarships in general, and all available money must be given out and a set portion of each fund must be exhausted. There are times when a student is listed as receiving multiple scholarships because of the limits of each particular scholarship fund. In order to give out all the money, oftentimes, we must give combinations of several scholarship."

Another C-M policy on distributing scholarships is that no student may earn

more in scholarship money than the cost of tuition. While this does not become a problem to the student body as a whole, there are some limited circumstances in which this policy affects students.

The editors-in-chief of the *Law Review* and the *Journal of Law and Health* as well as the Chairperson of the Moot Court Board of Governors receive full scholarships as a result of being elected to their respective positions.

The scholarship limit effects only individuals who either entered C-M with scholarships or gained scholarships after their first year.

For example, if a student entered C-M with a full scholarship and was subsequently elected editor-in-chief

of the *Law Review*, the student would only receive a full-scholarship, not the equivalent of two scholarships.

The situation is different than with the editors of the *Gavel* and certain SBA officers who receive money in the form of a paycheck from CSU for services rendered, as opposed to a scholarship from C-M.

George Zilich, 2003-2004 *Law Review* Editor-in-Chief, said, "I understand the reasoning behind the policy, and the reasoning is not flawed, but any of the elected full scholarship positions could be considered as an individual rendering services to the school and the school paying for these services. At the same time, I am very grateful that the school does pay my tuition because there are several schools that do not give full tuition to the editors."



## Bridging the gap

By Karin Mika

LEGAL WRITING PROFESSOR

*Q: Many professors seem to treat students as if they're irresponsible, immature and unable to put in the efforts of students from years before. What's your position on this?*

A: I think the world has changed and is continuously changing such that we are all called upon to adapt at an accelerated pace. I think the problem for all of us is that we often don't see the perspective of another person's life and/or the environment.

When I was in school, we were often told that we didn't have the dedication of previous students. Now we are the parental generation and we often see ourselves only as the accomplished, responsible, dedicated professionals that we have become. We also have (theoretically) a mastery of our field such that we have a harder and harder time each

### Legal Writing

year understanding why our students "don't get it" as well as we do. It is harder and harder to envision ourselves as those who were lectured by our own professors during our own youth.

Frankly, I believe law school and life are more difficult than they were at any time previously. I always marvel at the decisions that must be made by children even before they reach the age of 15, decisions that could dictate their entire futures. Life is more global, more fast-paced, and, let's face it – has at least 25 years more of history and technological developments that must be mastered. Add to this the fact that every move in our lives requires reams of paper to be filled out, that anything we attempt to do requires spending hours on the phone or in line and that everyone knows everything about us if they log on to the internet. Hobbies are more complex, medical care is more complex, family situations are more complex. Everything is more complex, despite the technological advancement that supposedly make our lives easier.

In any event, I think that the majority of the students I encounter these days are more driven and responsible than ever before. But I also remember that the majority of students in their twenties have the same characteristics that we all had when we were in our twenties. So with all of the things that are going on, and with all of the diversions that twenty-somethings should be having, I can see why only a percentage of what happens in law school sinks in. My only hope is that when the current students become the elder statespeople in their professions, they won't lament that the quality of their subordinates is so much less than what they had.

## Judicial law clerk: chamber made

In 1875, Horace Gray, then the chief justice of the Massachusetts Supreme Judicial Court, found a wise way to combat the sharp increase in his court's caseload as tort suits began to swell and judges fell behind in their work.

He invented the judicial law clerk.

In an unprecedented move, Gray hired, as his first "secretary," a bright young graduate from Harvard Law School, Louis D. Brandeis. Brandeis, the first judicial law clerk in American history, later clerked for Gray at the United States Supreme Court.

It took several decades before other state and federal courts followed Gray's lead. By now, judicial clerkships are well established in America, with clerks numbering more than 3,400 nationwide, according to a recent study by the National Association for Law Placement (NALP).

By the end of the 20th century, one out of every nine law school graduates – equal parts men and women – went on to become judicial law clerks, according to the NALP study.

That number is high for a reason. Beginning lawyers who serve as staff attorneys or judicial law clerks have an unmatched opportunity not only to learn and help mold federal, state and local law, but also to cultivate important mentor-mentee relationships with judges and develop solid reputations among the more seasoned members of the bar.

Clerking can be dramatic.

Some clerks have played epic roles in forming our common law. Fast-forward a century from the Brandeis era to 1986, when the Supremes were considering whether to strike down as unconstitutional a Georgia statute that effectively outlawed homosexual inter-

course. By a five to four margin, the Court permitted the statute to stand.

The swing vote in *Bowers v. Hardwick* turned out to be Justice Lewis Powell, then 79 years old, an often unflappable Virginia aristocrat with an unusual bent for individual rights. Powell's biographers posthumously recounted a conversation the justice had with his law clerk while the *Bowers* case was pending, in which Powell seemed confused and even threatened by the gay-

Clerking gives you good press.

Many judicial staff attorneys at the trial court level find the more ministerial aspects of the job to be as rewarding as researching and writing the law. Managing the busy court docket is one such task in which staff attorneys and law clerks play major roles.

"People expect the court to be Carnac the Magnificent," one staff attorney told me, "but for the system to work effectively, it takes cooperation between both counsel

brief-writing and lackluster pretrial advocacy. On the other hand, clerks are able to learn great techniques from some of the masters from many areas of the law and often can land a job with them when their terms are up.

Law school civil procedure classes might be informative, but there's no better training than to be immersed in those rules every day. New clerks grow mindful of the technicalities of practicing at a wicked pace, leading to a greater confidence once they enter the private practice.

Small pay, big reward.

None of this we do for the money, mind you. NALP's most recent statistics for 2002 show that judicial clerks nationally take in an average annual salary of \$41,300, while their counterparts in private firms gross an average of \$87,200 yearly. But Mark Twain may have been right in opining, "the less a man knows . . . the higher the salary he commands." Despite the lower pay, most of us are quietly, decidedly pleased that our clerkships are among the best law jobs we will ever have.

All told, having a clerkship out of law school gives young lawyers a jump step on others struggling to learn the law and the system at a more usual pace. There's no glory in clerking, but the nuts-and-bolts training and relationship-building are enough to make it a great way to apprentice.

"Working as a staff attorney for a judge is quite possibly the best foundation there is for someone interested in practicing law," said Tracy Schwotzer, a judicial clerk in the Cuyahoga County Court of Common Pleas.

Whether your aim is to save the world from outmoded civil rights law, to develop lifelong relationships with judges or simply to bone up on procedure before you begin practicing privately, consider the clerkship as a great first step. Unlike Brandeis, an empty spot on the High Court may not be awaiting you, but so many other riches will be there for the taking.

*Kevin Butler is a 2001 graduate of Cleveland-Marshall and currently the staff attorney for Judge Daniel Gaul in the Cuyahoga County Court of Common Pleas.*



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rights issues briefed in the case.

"I don't believe I've ever met a homosexual," Powell told his clerk, just before voting to uphold Georgia's ban on homosexual sex.

Powell's instincts were proved wrong. The law clerk himself was, in fact, gay, but he never told his boss. Years later, Powell's clerk regretted that his silence alone may have eased the justice into siding with the majority in *Bowers*, a decision Powell, too, later said he rued.

Appellate clerks at the state and federal levels are fortunate to be engaged in the same sort of judicial struggle, albeit presumably on a less dramatic scale.

Most judicial clerks in appellate courts quickly become marvelous legal researchers and writers and usually draft the court's opinions. (Just imagine that you, too, could someday write, "The issue is, what is chicken?") These types of clerkships frequently pave the way to high-paying private firm jobs.

and the court."

Enter the court's law clerk to bridge the gap between jurist and practitioner. A young lawyer steadfastly loyal to her judge, but also considerate of the old salts looking for procedural help, often has the discretion to assist lawyers with scheduling issues so long as she keeps the judge's overall case management goals intact. Everyone goes away from the court satisfied, and the court gets its proper due from the attorneys, thanks in large part to the law clerk, whose efforts won't often go unnoticed.

Other perks to becoming a law clerk (or staff attorney; terms without much distinction) include:

Clerkships help demystify the person in the robe. Having daily contact with the judge in chambers and on the bench yields a perspective few others will ever have. And making friends elsewhere in the courthouse is always good.

Law clerks learn what *not* to do early on in the game, having to witness firsthand both halfhearted

### RANKINGS

Continued from page 1--

ratio in addition to average per student spending in 2003-2003 on items including financial aid and total volumes in the library. Categories including graduates employed at graduation, employed at nine months after graduation and bar passage rates comprise 20 percent of the ranking.

Despite its popularity, the annual *U.S. News*

rankings are not without controversy.

The greatest controversy, according to Stephen P. Klein, Ph.D. and Laura Hamilton, Ph.D., who authored a recent study on the validity of the rankings, is that *U.S. News* does not consider many factors, such as the educational benefits of attending a certain school or the quality of its faculty, that are just as important as the ones it does include.

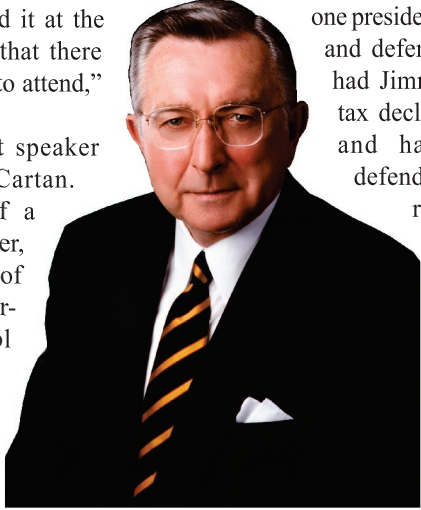
There also are problems related to the accuracy of the data *U.S. News* relies on to measure a factor, intentional and unintentional biases in the subjective assessments of school quality and the use of variables that may foster inappropriate school practices. Despite these controversies however, the survey is continually relied upon by employers to determine a school's reputation.

The rankings are published annually.

# Patrick F. McCartan to speak at Commencement

The Law School Commencement Ceremony will be held on Saturday, May 22 at 2:00 p.m. at the CSU Convocation Center. The ceremony is open to all C-M students. Steinglass said that he would welcome non-graduating law students to attend the ceremony. "We hold it at the Convocation Center so that there is plenty of room for all to attend," said Steinglass.

The commencement speaker will be Patrick F. McCartan. McCartan, the son of a Youngstown police officer, attended the University of Notre Dame for his undergraduate and law school education. From 1993 through 2002, McCartan was the Managing Partner at Jones Day where he currently is a Senior



Partner concentrating on appellate litigation and corporate governance matters.

McCartan has been cited in various reputable surveys as one of the country's most respected and influential lawyers. He is one of the few lawyers to have enjoined one president of the United States and defended another, having had Jimmy Carter's gasoline tax declared unconstitutional and having successfully defended Ronald Reagan's right to \$29 million in federal election funds.

## PAST EXAMS ON-LINE

In an effort to provide students with the broadest possible access to past exams, the

Law Library staff has placed past law school exams online. Students may now print the exams in the lab or from home. The exam

collection consists of the actual exams given to students in previous years. Whether and which exams to post online is up to the individual professor. Some professors chose not to have their exams placed online. If a student cannot find an exam for a particular professor, they can check the exam index at the public services desk. An exam may be available in hard copy which may be photocopied.

Faculty members allowed placement of past exams online as a service to the students. The professors retain all intellectual property rights in the exams they have written. Only C-M students, faculty and



## Notes in Brief

staff have access to the online exams. Students can use their normal login and password to access the page.

### NEW LEADERS

Elections have been held for various 2004-2005 positions. Dawn Doran, 2L, and Travis Jeric, 2L, were elected to be joint-editors-in-chief of the *Journal of Law and Health*. Joshua Klarfeld, 2L, was elected as editor of the *Law Review*. Nora Graham, 2L, was elected as chairperson for the Moot Court Board of Governors. Eric Doeh, 2L, Amanda Paar, 2L, and Jason Smith, 2L, were elected as editors for the *Gavel*.

The following individuals earned slots on the 2004-2005 Moot Court Team at the Spring 2004 Second Year Intramural Competition: Joseph Degiorgio, Stephanie Holland, Amanda Paar, Daniel Powell, Nicole Shero and John Troese.

## ELECTIONS

Continued from page 1--

should not be taken lightly. Because there is always a higher scrutiny placed on voting procedures, the complaint deals with very important matters."

"All that we asked for was a fair election," said Hyndman.

According to Billups, the complaints were filed to try to remedy the situation of Hastie and Schroth having a longer campaigning period than the other candidates. "Certain rules must be enforced...because they [Hastie and Schroth] didn't follow the rules, they had more than 120 hours more campaigning time than those who followed the rules," said Billups.

"While the 120 hour figure may not seem like a large advantage, when compared to the limited amount of campaigning allowed by the bylaws, those who didn't follow the rules had almost three times as much time to campaign...which gave them a distinct advantage," said Billups.

Section 13 of the Bylaws states: "Violation of these rules may be grounds for disqualification of the election. The election committee has the power to authorize new elections, or take other appropriate action, including but not limited to submission of the matter to the honor code committee."

Both the Billups and Hyndman complaints "advanced several appropriate sanctions in order to make the election process fair," said Billups. While

the Hyndman complaint stressed disqualification of all members of the Hastie ticket mentioned in the two emails, including Hastie, DeSantis, Schroth and Storey, the Billups complaint stressed disqualification of only Hastie and Schroth.

Another appropriate solution laid out in the Billups complaint included a deduction of 40 votes, the number of emails sent, from the Hastie total. "Because the results of the election were close, the illegal emails could have effected the election," said Billups. The Billups complaint also suggested a remedy of terminating all campaigning on behalf of the Hastie ticket at the time it was

determined by the election committee that early campaigning had occurred. "This termination in campaigning would have leveled the playing field by allowing all parties an equal amount of campaigning," said Billups. Finally, the Billups complaint advanced that if sanctions included any disqualification, the election committee should stay the election and allow other students 48 hours to enter the elections. "This remedy would give students a choice in their representatives and would prevent a uncontested election," said Billups.

Pursuant to Section 11 of the Bylaws, the committee heard the complaints and issued sanctions against both Hastie and Schroth.

Hastie was banned from all campaigning on Tuesday from 11:30 a.m. until 12:30 p.m. According to SBA President Sasha Markovic, to effectively nullify his ability to campaign and garner votes, Hastie was barred from the student lounge area, the atrium, the computer lab and all high traffic areas. The committee banned Schroth from cam-

pan who will bring such complaints to the election committee, Billups and Hyndman should have included all arguments and points of discussion within their written complaints." Furthermore, Markovic said that Hastie was not invited or present at the hearing to advocate for himself.

Billups and Hyndman also said that they did not feel that it was appropriate to have the election committee decide the sanctions

the election procedure. They never voiced any complaints at that time regarding their problems with potential conflicts of interest between the election committee and running SBA senators."

In response to Billups's and Hyndman's concern that Markovic and Nowak were present at the election committee meeting, Nowak said that he in no way directed any of the discussions.

Markovic said, "Because I am the SBA president and responsible for the actions of the SBA as a whole, I felt that it was appropriate for me to be in attendance to make sure that everything was proper, but I did not play any role in the decision."



or for Markovic and Nowak to have been present during election committee deliberations because such presence is not provided for in the bylaws.

"I will vehemently defend the committee's actions to the very end...one would be misinformed if they think that there was any impropriety," said Markovic.

"Because this was an SBA election, the SBA Bylaws contain governing procedure for complaints, the proper procedure was followed and the decision was made in order to ensure fairness to students, the candidates and the election. Whether or not Billups and Hyndman felt that the bylaws were a good idea or not, they contain the procedure and that procedure must be followed.

"I find it interesting that the filed complaints contained numerous specific references to the controlling Bylaws, but Billups and Hyndman choose to ignore and attack these same Bylaws when dealing with their complaints about the election committee process," said Markovic. "Furthermore, both Billups and Hyndman were present and offered a chance to speak at an SBA meeting prior to the elections regarding



Jason Smith-Gavel

paing for one and one half hours during the peak time on Wednesday and barred him from the same areas as Hastie.

Billups and Hyndman said that they had several concerns with the handling of the complaint. "We didn't receive a hearing as required. We did not receive our due process because we were not invited to the private meeting and therefore were not able to be heard," said Hyndman.

Markovic said that the requirement of the parties to be present at the hearing is not anywhere in the Bylaws. Markovic said, "Because the Bylaws provide that all complaints are to be heard by the ombuds-

Billups and Hyndman also said the remedy issued was inappropriate. "How does a 120 hour head start equate to a one hour stay of campaigning," asked Hyndman. Markovic defended the severity of the sanctions and said, "Not being near the election box or other high traffic areas for an hour is so detrimental to the candidate because you are unable to reach a multitude of undecided voters."

Billups and Hyndman appealed the election committee's findings to a hearing in front of the full senate. During the May 1 appeals hearing, Billups and Hyndman argued that the proper procedures were not followed, the facts were not interpreted correctly and that the sanctions were not appropriate.

A quorum of the full senate affirmed the election committee's decision in its entirety. "As far as the SBA is concerned, this matter is closed," said Markovic.

Hastie said, "The procedure was in place, the elections committee followed the procedures and rendered their decision. I accepted and followed the sanctions and look forward to getting to work to serve the student body." An appeal was filed with the university and a hearing is scheduled for Wednesday, May 4 at 9:00 a.m.

*Pictured above from left to right: Stephen Norwalk, 3L, the SBA ombudsman, Terry Billups, 2L, Michelle Hyndman, 2L, Brendan Doyle, 3L, Michael O'Donnell, 3L, and Sasha Markovic, 3L.*



## SBA Pres wraps-up with state of school

By Sasha Markovic

Last year, while campaigning for the officer positions, we promised the students that we would attempt to make strides in four major areas. We promised to: 1) develop and refine student resources; 2) increase opportunities for evening student participation at social events; 3) lobby the administration for academic and scholarship reform; and 4) develop the relationship with the Young Lawyers Section of the Cleveland Bar Association. During the past year the entire SBA (Officers and Senate) worked diligently in those areas.

**Develop and Refine Student Resources:** At the end of last year, and during this past summer, David Van Slyke, SBA treasurer, organized upper class students to serve as peer advisors. David's efforts resulted in one of the largest upper level peer advising classes in recent memory. The importance of peer advising should not be overlooked. First-year students come into law school with many questions and very few answers.

The SBA wanted to create a committee of class scheduling advisors for the first-year students. Scheduling advice is an area severely lacking at C-M. The ability to answer questions about specific classes and professors, as well as what combination of classes is manageable, is vital to proper scheduling. While our efforts to assemble an organized student committee fell short, a number of SBA members approached first-year students during the scheduling period and offered scheduling advice. Perhaps this is an area that next year's SBA can focus on and improve.

Additionally, the SBA would like to thank Assistant Dean Gary Williams and his staff for their hard work on the academic programs. Dean Williams continued to expand and develop the Academic Excellence Program and established the Bar Exam Preparation Program. Dean Williams' commitment to the academic success of C-M students is greatly appreciated.

**Increase Opportunities for Evening Student Participation At Social Events:** This past year, the SBA had a variety of social events at various downtown venues. Each social event was extremely successful. The SBA made sure that each event was scheduled to begin late in the afternoon and that it lasted late enough for the night students to attend. Social events that featured food were organized so that

See **SBA WRAP UP**, page 11

# Wild West on the North Coast

Ohioans have now adopted the old laws of the Wild, Wild West. Beginning April 8, residents of the fine state of Ohio were able to lawfully possess a handgun as long as they are law-abiding citizens and mentally competent. We have the right to bear arms, but do we really want the average Joe or Sally walking into McDonald's with a handgun, excuse me, "concealed weapon"? What will happen if his fries are not hot or there is an unwanted pickle on her sandwich?

It is speculated that approximately 100,000 people will apply for concealed weapon permits within the next six months. Could you imagine if we could get this many people to participate in local elections?

If you are one of the 100,000 people who feel the need to carry your weapons at home when going to the following places: state-owned buildings, airplanes and airport passenger terminals (please, no Passenger moves); courthouses

**The Gavel**  
Editorial  
Opinion

Also, employers can forbid their employees from bringing guns to work, extending all the prohibiting guns in employees' vehicles parked on the employer's premises.

So basically we are left with nowhere to carry our guns but in the street. We're in a time warp. Put on your cowboy hats, dust off those boots, saddle up the horses and bring your six-shooter down to old Euclid Avenue for the shootout at high noon. Take to the streets!

We preach to our children that violence

Children are miniature tape recorders. Don't you laugh when you hear an adult phrase comes out of a six-year old's mouth?

Children are constantly listening and watching adults around them; that includes parents, most importantly, along with teachers, brothers, sisters, grandparents, uncles and aunts, at the very least.

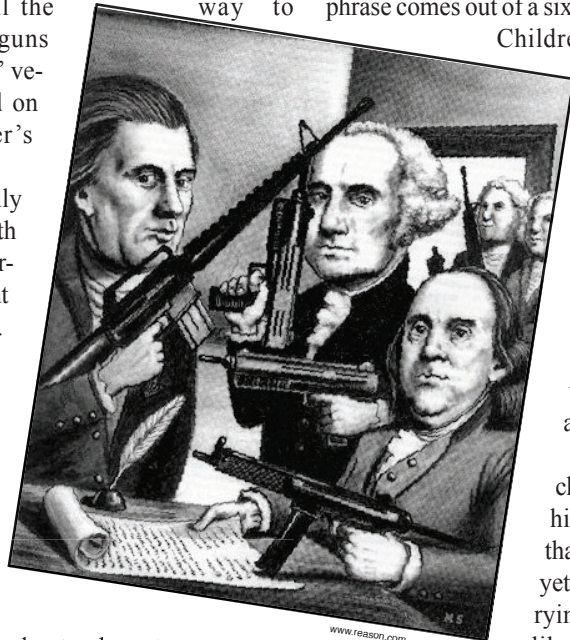
So what is a child thinking when his father tells him that violence is bad, yet walks around carrying a gun? Seems like contradiction at

best. Are children going to receive gun training in school now?

Supporters of concealed-carry will argue that self-defense is the main rationale behind the law. Dad isn't going to actually use the gun, he just has it for protection.

Seriously, what is the logic of this law? Dad is allowed to carry his gun, but, when he sees the "no guns allowed" sign at the local Dairy Mart, he has to lock his gun in his car before he can purchase the milk and lottery tickets. So, if the bad guy decides to take dad down in the convenience store, his gun is conveniently unavailable...there goes the self-defense theory.

If you are worried about self-defense, pepper spray or a stun gun will buy you enough time to run like hell out of the situation. You'll also avoid a trial for murder.



www.imdb.com

(looks like your lawyer is your only weapon here); child and family day care centers (after all, the children growing up in a society where guns are permitted must be protected, right?); police stations, sheriff offices and highway patrol stations (no one wants to hear you sing "I Shot the Sheriff"); jails (just in case you wanted to help your favorite convict pack some heat); churches or other places of worship (but, if you could shoot people in church, you could just repent right there!); or any portion of any building leased by a state or other political subdivision of the state even if the building is not owned by the state (looks like you'll have to do some research here).

Additionally, weapons are not permitted in institutions for mentally ill persons (you don't want to get checked in, do you?); universities (how else will you learn about the NRA?); premises that dispense liquor (liquor and guns, hmm...enough said) and school safety zones (there's one less item to bring for show-and-tell).

Further, private business owners have the right to prohibit guns on their premises. The stickers indicating that guns are disallowed in such places can already be seen on some downtown buildings.

is not the answer. We complain about the bad influence that pop culture icons such as Eminem, 50 Cent and Lyncoln Park have on children. We prevent them from seeing PG-13 and R rated movies until the respective ages of 13 and 18. We attempt to instill high self-esteem into our children and constantly speak of the importance of making good decisions and the grave impact that bad decisions will have on their futures.

Perhaps we do a decent job of sheltering our children from the precarious influences of outside forces, but what happened to practicing what we preach? After all, children learn by example.

## Correction

Due to an editorial error in the March issue of the *Gavel*, commencement speaker Patrick F. McCartan was referred to as an Ivy League graduate.

McCartan received both his undergraduate and law degrees from the University of Notre Dame in South Bend, Indiana.

Notre Dame remains ranked by *U.S. News & World Report* as one of the top ten law schools in the nation.

## THE GAVEL

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# Anarchist's guide to law school

By Josh Dolesh

GAVEL COLUMNIST

I am about to give you the lowdown on how to prevent a law school meltdown. This information has been culled from many sleepless nights spent fretting over the next exam, the next cold call or the next (insert your own personal fears here). Some people may not be happy I am giving this advice.

Lesson number one: professors can make your life hell. But, one man's hell is another's heaven. Unfortunately, I had to learn this the hard way. The bottom line is don't take anyone's advice about professors. Why do you think the school has all these signs for professors' lectures, because they like to give away free chow and soda (or the occasional adult beverage)? These lectures exist so students can decide if they should replace their prescription sleep aids with tapes of the professor. So, go to these lectures.

Another solution is to schedule as many classes as you can. Go to all eight classes a couple times and decide for yourself if you like the professor, then just drop the worst ones. This method is advantageous because it allows you to double check and make sure that the lecture you attended was not just a rare stroke of brilliance and showmanship on the professor's part.

Invariably, you will get stuck with a nightmare professor. It happens. Here are a few tips. First, get to class early on the day the seating chart is passed out and get a seat in the back. If you get stuck with a seat in the front, you will not be able to use the skills you mastered as a 1L.

We all know the skills. The ol' look down, look up, look down (like the parentelic principle), flip some pages or ask to hear the ques-

tion again. If a professor can see that your casebook is clean, and your notebook has a solo drawing of a "wardrobe malfunction," you can flip until the cows come home.

In addition to sitting in the back, avoid flashy clothes. Skip the tie-dyes, light-up pens, etc. Anything in wood grain or slate is good. Urban camo-gear works well. And above all else, don't make eye contact when the pro-

cessors fall into one of two categories: Those who test on what they teach, and those that test on everything but what they teach.

Next, focus on the course content.

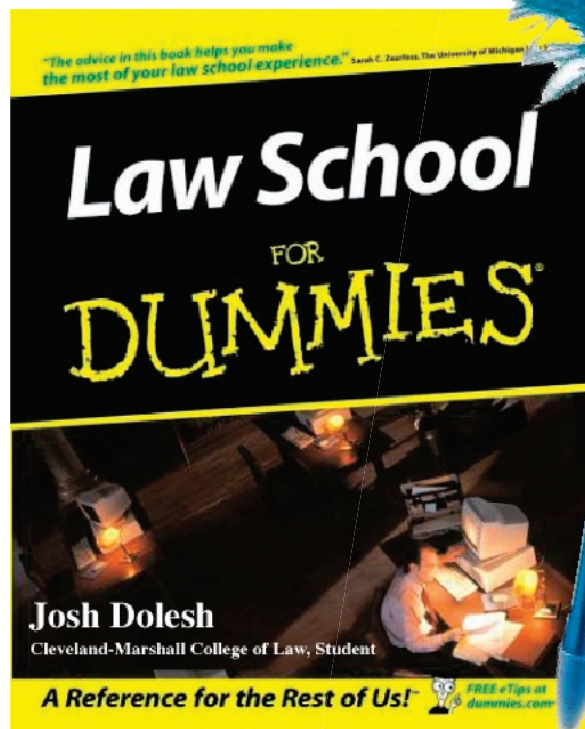
Read the hornbooks, read the nut-

You will only know which one you are dealing with by looking at the old exams. So look at the old exams (if they are provided). Finally...

grades. If your professor gives you an A, take the professor again. There is a good chance you will get another good grade. If you do decide to make the switch, look at the grade distributions from the past semester. Some professors stay closer to the curve than others.

My advice is just that: advice. Everyone will have a different way of looking at the law school experience. Who is to say that mine is better than another's?

But, the one thing I know for sure is that no amount of maneuvering or speculation can substitute for time spent studying. And above all, enjoy yourself. You will all have plenty of time for acid reflux and hypertension when you get into the real world.



essor asks the question. If you do, you might as well have a big sign that says, "I have something thought provoking and ingenious to add to the discussion." Of course, professors know all these tricks, so it is up to you to use your best judgment on when to go with the reverse psychology and do exactly the opposite of what I have just said.

As an alternative, you can always go with the preemptive strike and volunteer on something you know and hopefully avoid the four

"law," but they do allow you to get some insight into the field, and if you are lucky, your professor will use an example from one of these sources as an exam question. It sounds like a lot of extra reading, but it makes exam prep a snap. And by all means, don't buy the hornbook.

The librarians have them on reserve. To this day, I have never been told the hornbook I needed was checked out.

When it comes time for testing, it is my experience that most pro-

shells and read the examples in the restatements or uniform laws.

Sure, they are not the

## 1L searches in vein for gainful employment

By Alex Hastie

STAFF WRITER

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

Do you have a job for the summer? Not just a job, but a bona fide job in the legal world? If you do, congratulations to you. I have nothing. All my interviews have ended in disappointment and regret. Does this make me some kind of law school reject? Perhaps, but I write this week in hopes of someone else sharing my feelings about the cruel, cruel world of attempting to obtain summer legal employment.

My worst interview involved an attorney who had graduated from the University of Akron School of Law. He proceeded to give me an impromptu quiz on contracts, civil procedure and torts. Has C-M fallen that far off the legal map that potential employers must first check to see if we've been learning anything? "Excuse me, sir, is that your University of Akron legal diploma hanging on the wall?" Anyways, I didn't get that job, mostly due to numerous awkward mo-

ments and my profuse sweating throughout the interview.

After attempting to gain employment through random resume submissions, it was time to work my connections. Connections proved to be a relative term. Not one of my "insiders" could get me a job in Washington D.C. for over seven dollars per hour. Next, I moved on to my hometown connections in Columbus. Suffice to say, I had no success there either. So what next? I've decided to forget about jobs this summer and focus on next week's exams. I really need to start those outlines.

I'm truly happy for those of you that have received job offers from multiple firms as 1L's. Some of you are already working at firms, which I believe is crazy. You haven't even received two semesters of grades and you already deal with client matters. What if you fail out this semester? Do you just keep working at your firm and hope they never ask how you're suddenly able to work 60 hours a week?

On another note, as spring exams approach, so does the fear of failure. As spring exams grow near, so do the blue skies of summer. Don't forget how long of a winter

we all suffered through. Take some time and be outside these last few weeks. I've found it to greatly improve my mood, not only towards school but towards everything. And to you 1L's who have been studying forever, maybe relax a little and give the rest of us a chance this semester.

A lot has changed in the past eight months of school. Mainly, I'm not so bad at law school anymore. Studying comes easier, briefs have grown shorter and my stress level is lower. It has been my pleasure growing with you this year. Sharing my insecurities with the rest of the world has been a great experience. I wish everyone the best of luck on exams and for the summer. Those of you who won't be here next fall, it's been a pleasure knowing you. And to those of you unemployed and hoping to return in the fall, I salute you. Say goodbye to the anonymous 1L!



## Open Mike

### 2L sounds off on recent events

By Michael Luby

STAFF WRITER

Well, the school year is officially coming to an end. It has been a fairly good year, in my opinion. Over the past year, the *Gavel* has garnered some legitimate respect around the school and maybe beyond for some of our enterprises. Thanks to all of the students, faculty and administration who take the time each month to make our contributions worthwhile.

The school began in a state of unrest, at least so it appeared. Two hundred seventy-eight first-years! Whatever the number has whittled to now, that many legal virgins in one spot was

unrivaled by the whole state. We all know C-M started the year alongside the bottom-feeders. That most reliable source of law school rankings, *U.S. News and World Report*, unfortunately felt placement among the depths of the Black Sea was a fitting standard with which to judge us.

Well, with applications approaching 1900 and a year behind us, it looks as if C-M is on the right track. Surely, the third tier may not signify much, but those most nubile, unwitting, future scholars of the law won't know the difference. It appears the foundation is in place. With the downsizing plan firmly established, a concrete SBA platform by which to model the future and students educated in ways outside the classroom, the school's future appears bright.

There is something to be said for all the behind the scenes action that occurred this year. The administration and faculty recognized the Bar Exam problems and took several steps to remedy them. The *Cleveland State Law Review* firmly secured an almost business-like model in which to improve itself and its publications. Further, the SBA and many other groups ensured the life of a student went beyond the classroom, and there is something to be said for drunken law students in costume.

For every student to whom I have spoken with and/or met with this year planning on making C-M their home for the next three years, there is one theme that has rung throughout... the dedication to the quality atmosphere, be it the faculty-student interaction, the pleasant Cleveland winters or the ability of the [insert Cleveland sports team] to successfully break the hearts of thousands year in and out. C-M lays it on the line year in and year out, and it seems the nation is starting to take notice.

I'm not sure how deep the tide of respect runs past the banks of the Cuyahoga, but either way good luck to the graduates. For everyone else, we'll see you next year.

# Deadwood comes alive with booze, whores and guns

*“The Sopranos” successor replaces mob bosses with a twist on natural law principles*

By Marc Bullard

HBO's hit show “The Sopranos” is scheduled for only one more season, absent a change in the mind of lead actor James Gandolfini, which given past history, is not entirely out of the realm of possibility. With this hit show preparing to wrap up, HBO has responded by attempting to launch a new show that will attract a viewing base similar to the base that “The Sopranos” held.

The new show, “Deadwood,” is billed as an “epic morality tale” and is based on the ensuing power struggle arising in an illegal mining camp. The show is set in the Black Hills Indian Session, in what is now known as South Dakota. Historically, the 1868 Treaty of Fort Laramie purported to forever cede the land where Deadwood is located to the Lakota-Sioux. As the story goes, in 1874, General George A. Custer, in violation of the treaty, discovered gold in the Black Hills. As a result, despite U.S. efforts to cordon off the area, word of the gold got out, a gold rush ensued and the town Deadwood was born. Legally, although Deadwood settlers may have been in violation of the federal treaty, there were no other laws in place. Thus, the settlers would be governed by their own subjective ideologies or what could be called a natural law.

In HBO's “Deadwood,” the gold rush attracts an interesting cast of characters representing a spectrum of moral viewpoints that

converge over control of the town. The show opens, contrasting the law with the illegal, with Sheriff Seth Bullock (Timothy Olyphant) and partner Sol Star (John Hawkes) warding off an angry lynch-mob, only to hang his prisoner himself by the law before departing to the lawless town. Also making

and his crew of road agents who carry out his plan of influence.

In the first episode, an allegiance is struck between Hickock and Bullock because of their apparent moral common ground forged in riding out to rescue a family bandwagon allegedly assaulted by

gen was calling the shots and ordered the assault on the bandwagon to prevent bad word of mouth back east about Deadwood. As a result, lines have been drawn, and the battle over moral and economic control of Deadwood will continue through this summer.



www.hbo.com

the trip is the trio of former Sheriff Wild Bill Hickock (Keith Carradine), the foul-mouthed Calamity Jane (Robin Weigert) and Charlie Utter (Dayton Callie). These two groups arrive in Deadwood to compete with already established Al Swearingen (Ian McShane), the ruthless owner of the Gem Saloon and apparent operator of the town

natives. When Hickock and Bullock's investigation indicate that it was not natives but road agents, they confront the original informant and then execute him, when his involvement becomes clear. Not necessarily the due process we are used to, but still some process—the law of the draw. Unknown to Hickock and Bullock, Swearingen

Robert Milch brilliantly writes “Deadwood.” Although grotesque at times and offensive at others, the plot is laden with jurisprudential themes. “Deadwood” should be compelling to outsiders of the western genre because of its very human conflict. There is big picture conflict between right and wrong, in the lack of law and the need to adopt customs in order to conduct business and each character is seemingly waging an internal battle between right and wrong, such as Bullock's seemingly strong commitment to upholding law contrasted with his venture to the lawless town for personal profit.

“Deadwood” does a good thing, turning the already interesting history of a town with a murder rate of ten percent of its population per day (one person) into a thrilling story line about human nature in the absence of law. The show should fill in nicely for HBO where “The Sopranos” left off. From a jurisprudential point of view, Prof. James Wilson best sums up “Deadwood,” in stating, “‘Deadwood’ is a parable of why we need law.”

Bullard is a 3L.

# Jurist speaks out with “southern comfort” flare

By Bobby Botnick

This semester I had the privilege of traveling to New Orleans for the Tulane University Mardi Gras Moot Court Invitational.

During my time down there, I had the utmost pleasure in meeting the finest judge to ever sit on the Louisiana Bench, Justice Robert Bartholomew Bartunek III – fondly referred to as “The Southern Jurist.” I met the Jurist at the Pelican Bar and he took a few moments out of his hectic schedule to grant me an interview for the Gavel.

Bobby Botnick: Justice Bartunek, thank you very much for taking the time to talk with me.

Southern Jurist: Please, my friends call upon me as the Southern Jurist and you shall do the same. It is indeed a pleasure to grace you with my presence.

BB: Mr. Southern Jurist, the pleasure is all mine. You look remarkably young for your age. About how old are you?

SJ: Why, thank you, kind sir. I just celebrated my birthday a month ago next Tuesday. Unfortunately, Louisiana did not begin issuing birth certificates until about a hundred years ago, so ah'm really not quite sure.

BB: If you've been alive this long, you must have a significant appreciation for the development of New Orleans and Louisiana.

SJ: This may come as a surprise t'you, but ma' family actually settled this-here city of New Orleans. Originally, ma' great-great-great-great grand-daddy wanted t'call the area somethin' impressive t'describe the magnificent beauty of the territory. His wife – ma' great-great-great-great grand-mommy – thought up the name Shiney Orleans. Needless to say – yet I will anyway – great-great-great-great grand-daddy found the name to be utterly insipid – expected of a woman – and settled on the name New Orleans.

BB: Incredible. So, tell me a bit about your own life. Where did you grow up? With whom did you associate?

SJ: Well, because ma' family has lived in this region for such a long time, we have a family estate that has been kept within the family for over 350 years. It's a comfortable little place – only 'bout 540 acres. We fondly refer to it as “Southern Comfort.” Ah still live there today with ma' ever-humble and attentive manservant, Steven LeBeau.

BB: I'm sorry to interrupt, Your Honor . . .

SJ: An'y'should be! Steven

is the greatest of companions and seeks to it that all of ma' needs are attended to. All ma' needs. Hmmm . . . but as for ma' acquaintances comin' up? Well, ah've known so many people over the course of ma' life. Let's see . . . Mr. Whitney, he was positively a delight. He significantly helped

increase profits of the



family business with that little contraption of his. Another inventor-friend of mine was Mr. Edison. Tommy would often descend upon Southern Comfort for a month or two during the autumn months. We would sit beneath the west gazebo and listen to some of those songs he would play on that phonograph of his. Those were indeed perfect days – me, Tommy, Mr. Bartles, Mr. James

and of course Dr. Pepper.

BB: Dr. Pepper, sir?

SJ: Why, sho' – he was ma' personal physician.

BB: You certainly have known some interesting people. But how about your legal career? Do you find it difficult relying solely on the common law of Louisiana when interpreting the Civil Code?

SJ: Not at all! After all, ah developed most of the common law ma'self. Though, ah could neve' have handled so many of these cases as efficiently as ah did had it not been for ma' loyal bailiff, Luke DeChateau. He's constantly takin' note whenever ah'm inspired on how to improve the Jurist – er – common law in Louisiana.

BB: Jurist, I was going over the list of people judging the competition this week and was shocked to not find your name. Any reason why a man of such esteemed status in this community did not receive an invitation?

SJ: Oh, ah was invited . . .

BB: Then why the no-show?

SJ: Do you have any idea what is goin' on in this competition? Are you aware they allow women to compete in this tournament? I

cannot recall such a denigration of our art. Simply outrageous! Tellin' women-folk they can pretend t'be lawyers! Crawdads will fly before any woman comes before ma' bench. Ma' court simply does not and will not recognize those of the female persuasion.

BB: Jurist, are you telling me you don't condone the practice of law by women?

SJ: Son, take note. There are only three things women should be practicin': lookin' pretty; keepin' a respectable home; and makin' more babies.

BB: Well, Jurist, it's clear where you stand on Women's Rights.

SJ: What do you mean by “rights”? Is that some progressive Yankee notion? Ma apologies, Mr. Botnick, ah see that ma cup of Americano no longer runneth over. I must be biddin' adieu. Don't forget to be pickin' up a copy of ma' new book.

BB: You have a book, Jurist?

SJ: Don't all great men have books? It's a New York Times Bestseller titled “The South (And How I Ruled . . . It!).” (Published by Penguin Books and available on Amazon.com for \$24.95 – plus shippin')

BB: Well, thank you so much for your time, Your Honor. And good luck with the book sales.

SJ: You're sure welcome, Mr. Botnick, and God bless.



# Hickory dickory dock, please adjust the clocks

*Coordinating C-M's clocks appears to be a simple task...apparently not the case*

By Jason Smith

MANAGING EDITOR

I leave my class and head directly to the library to get in some much needed studying; 11:15 a.m...12:15 p.m....12:20 p.m....12:30 p.m. I finally arrive at my destination without stopping to talk to anyone or being distracted by the aroma of fresh pizza baking in the side bar. The saying goes, "time flies when you are having fun." But, I am in the law school building, so I cannot be having that much fun.

So, why is the time going by so fast? One logical explanation is that there must be some sort of time warp present within the C-M building. However, as much as I would love to believe that the C-M and CSU academics conquered quantum physics, and thus time travel, I believe that there is a simpler explanation...laziness.

Is it too much to ask to have all the clocks within the same building in sync? Although I do not know with whom this responsibility

lies, it has to be within some department's job description. Knowing the bureaucracy present as CSU, there may even be a department, headed by the dean of chronometer accuracy, dedicated to such an endeavor.

At least one of the clocks has yet to be adjusted for daylight saving time. It has only been four weeks, so maybe we should give them a little more time to realize the need for change. Maybe this inactivity is a silent protest of this ridiculous ritual based on past needs. Or, maybe this is so those in charge can avoid "falling back" by simply not "springing ahead." Call it

preparedness.

I really do not think that I am being needy. Every clock within the school does not need to be exactly in sync with the official atomic clock.

A rather large five minute differential would even be acceptable. But, when our clocks resemble those at the United Nations, each displaying a different time zone, there is a problem.

There are several problems associated with this "clock malfunction." In several classes, professors are unsure when to start or end class. I have

no problem if they end class five minutes early (I actually wish it would happen more often), but I constantly find myself arriving "late" to class. Some professors take attendance and mark students

absent if not present at the beginning of class. Therefore, one could be considered late for class, and thus absent, when actually being five minutes early. That makes

sense, does it not? Several of these absences could even result in a lowering of a student's grade. Those damn clocks!

You could always avoid this situation by arriving ten minutes early to each class just to cover your ass. Then, you will not be marked absent and may even get the assigned reading done.

Or, you could simply memorize the variations within the different classrooms and plan accordingly.

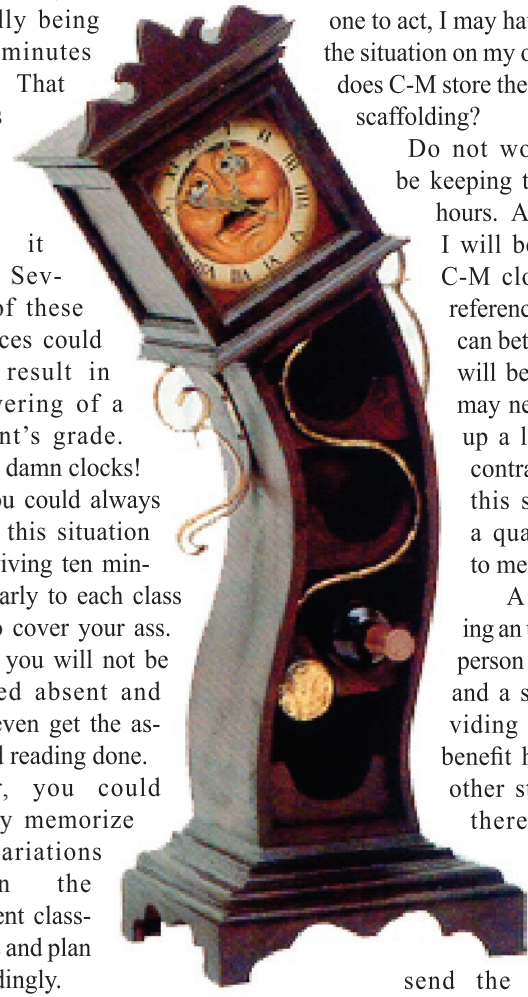
However, this may be a more difficult task than mastering the Uniform Commercial Code.

If this rant does not get someone to act, I may have to rectify the situation on my own. Where does C-M store the ladders and scaffolding?

Do not worry, I will be keeping track of my hours. And, because I will be using the C-M clocks as my reference point, you can bet these hours will be inflated. I may need to brush up a little on my contract law, but this sounds like a quasi-contract to me.

A doctor helping an unconscious person on the street and a student providing services to benefit hundreds of other students...is there really a difference.

Just tell me where I should bill.



# If your outlook has changed, you might be in law school

By Jason Smith

MANAGING EDITOR

No matter what one's profession, there are certain mannerisms which give the outside world clues about what career path one has chosen.

Being in law school is no different. There are certain ways that we act and speak that give others a glimpse of what being in law school does to a person. So, here is a list of ways to prove that you are changing while in law school.

If you watch courtroom dramas on television and find yourself saying things like "objection, hearsay," "he can't possibly be charged with that crime...there was no mens rea" or "that's not what a real trial is like," you might be in law school.

If you get in debates with friends and family members and, instead of respectfully disagreeing, try like hell to impeach their credibility or find flaws

in all of their arguments, you might be in law school.

If you actually go to class because you want to learn and do not want to miss anything important (not merely because you are required to be there), you might be in law school.

If you are constantly being approached by family members and friends for legal advice and give it, always with the disclaimer that you are only in law school and not a practicing attorney (of course, we would not want to have the unauthorized practice of law on our records), you might be in law school.

If you like to wind down from an especially stressful week with more than a couple alcoholic beverages, you might be in law school.

If you graduate on a Saturday only to begin classes and studying on that Monday, you might be in law school.

If your main goal in life is to work 80 hours each week and never see your family for the rest of your life, you might be in law school.

If you look around and see that 90 percent of the people surrounding you are either married, engaged or belong on "A Makeover Story," you might

be in law school.

If you actually know what "tort reform" is and have an opinion about it, you might be in law school.

If, whenever you encounter some sort of problem, you try to solve it by writing a 15 page letter containing such words as "said fine," "aforementioned," "hereinafter" or other such legalese, you might be in law school.

If all you do at work is research, read, write and plagiarize (no need to reinvent the wheel, right?), you might be in law school.

If, during an exam, your arm cramps up, your fingers become disfigured, you are stuck in a windowless cell for three hours and, when you leave, you have absolutely no idea if what you just wrote in eight blue books will get you an A or a C, you might be in law school.

If you are in the same building for 12 hours and haven't been able to eat anything but a bag of stale pretzels since 1:00 p.m., you might be in law school (at C-M).

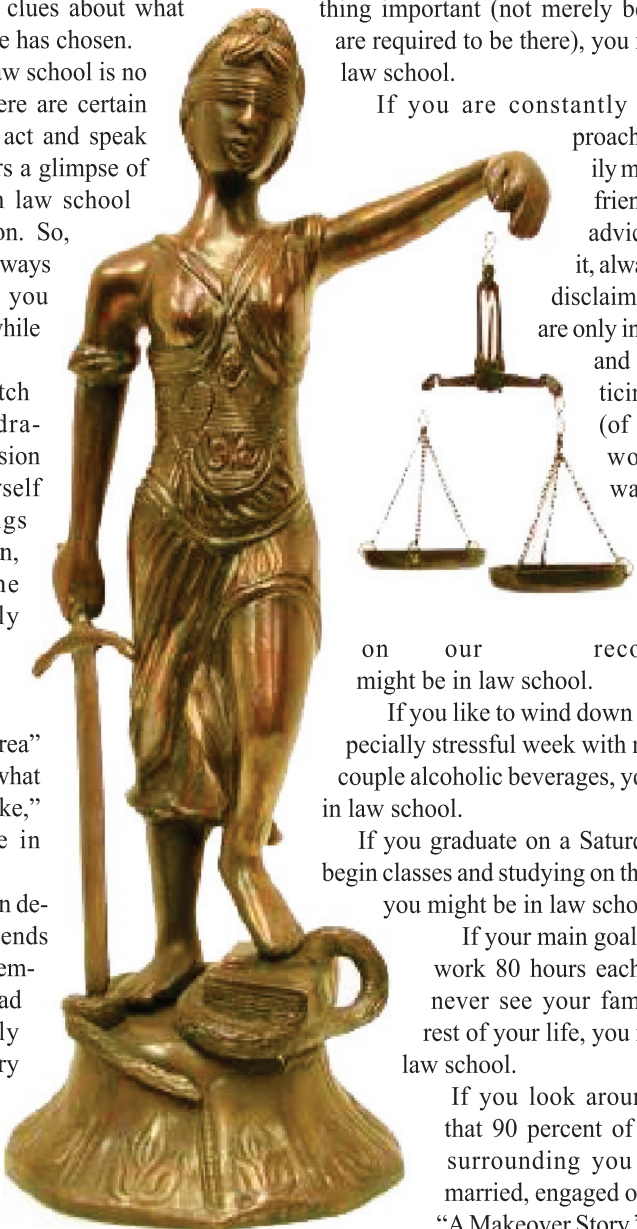
If you think that every bad thing that happens to you is a result of either an intentional tort, someone's negligence or a breach of a contract which entitles you to some much needed cash, you might be in law school.

If you think

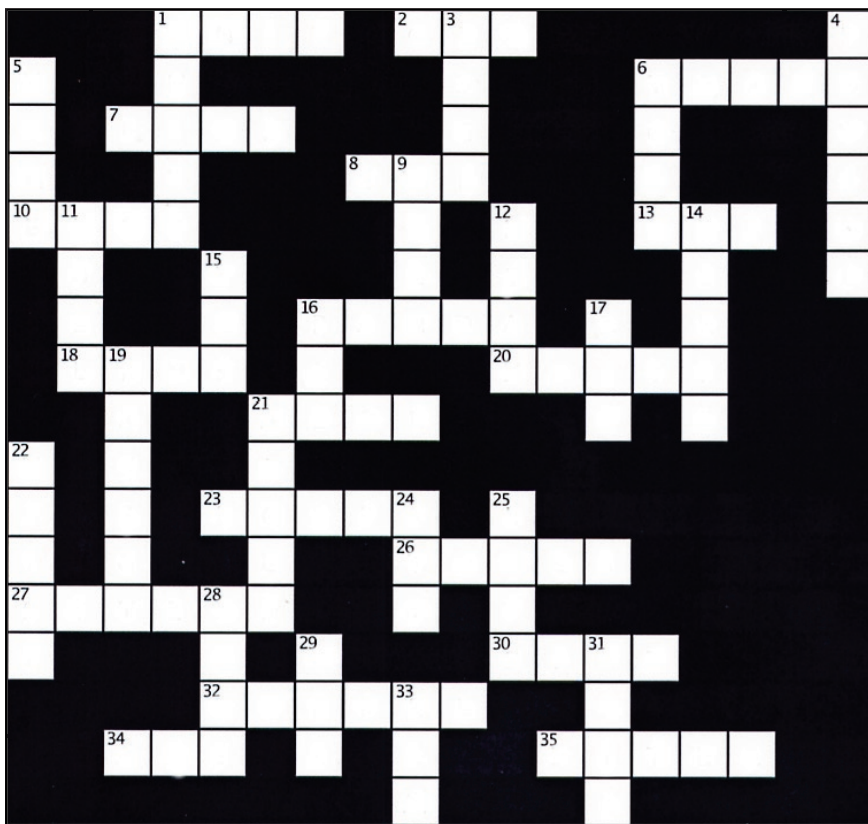
carefully about everything you say in every conversation and oftentimes clarify and correct yourself for fear that what you said might be used against you as an "opposing party admission" in future litigation, you might be in law school.

The goal of any law school should be to enable students to think like a lawyer. We hear it all the time from professors. The Socratic method makes you think on your feet just like a lawyer. You need to do solid legal analysis, rather than merely reciting black letter law, because that is what must be done when you are a lawyer.

It is safe to say that from the moment you enter law school and read your first case, your outlook on your surroundings change, and you do begin to think like a lawyer. Hopefully this thinking differently will help us all on the Bar Exam.



Answers to crossword puzzle from page 10



By Amanda Paar

LAYOUT EDITOR

ACROSS

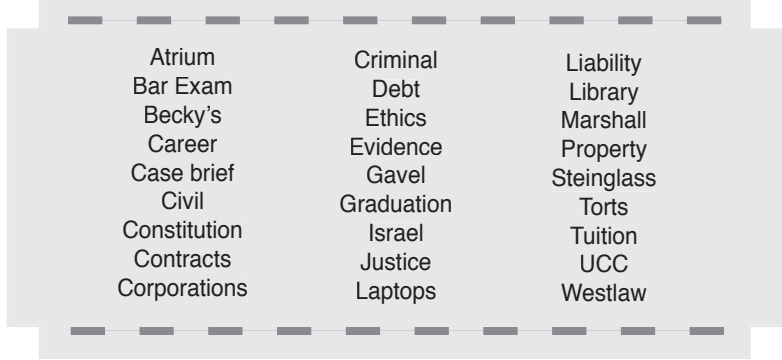
- 1. Troop
- 2. Jewel
- 7. Locate
- 8. IOU part
- 10. Otherwise
- 13. Crimson
- 16. Black and white animal
- 18. Glasses part
- 20. Island nation
- 21. Healing plant
- 23. Lazes about
- 26. Carpenter's needs
- 27. Shaped hair
- 30. Hurried
- 32. Fabric bag
- 34. Advertisements
- 35. Chomper

DOWN

- 1. Mix
- 3. Margin
- 4. Cow
- 5. Silent actor
- 6. Visit places
- 9. Small bird
- 11. Put to sleep
- 12. Biblical prophet
- 14. Uncanny
- 15. Affirmation
- 16. Friend
- 17. Zag's partner
- 19. Vitality
- 21. Out loud
- 22. Wet
- 24. Short term memory
- 25. Gobs
- 28. Ceases
- 29. Football association
- 31. Canal
- 33. Tree

Answers on page 9

# Legal mumbo-jumbo



# Hits and misses

**HIT:** The recent 70 plus degree weather.

**MISS:** Within 24 hours, it is 35 degrees and snowing.

**HIT:** Prof. White and Associate Dean Jack Guttenberg gaining attractive positions as deans at other law schools.

**MISS:** No longer having these well-respected, long-time members of the C-M community wandering the halls.

**HIT:** Plenty of them for the Cleveland Indians offense.

**MISS(ING):** The Indians bullpen, their supposed strength coming into the season.

**HIT:** Professors willing to "give the shirt off their backs" to help students with difficult classes.

**MISS(ING):** Someone's pants... allegedly.

**HIT:** A new webmail system that actually works...most of the time.

**MISS(ING):** Why the quick departure of the cute squirrel that welcomed emailers on the login page.

**HIT:** Professors giving end-of-

the-semester reviews that cover all important issues.

**MISS:** Leaving the review and being more confused than ever.

**HIT:** The warm weather brings out the smaller outfits, revealing tan bodies.

**MISS(ING):** The dignity of: some males who should shave their backs before wearing tight t-shirts and females who shouldn't be wearing revealing clothing.

**HIT:** Summer break begins soon.

**MISS:** Finals begin sooner.

**HIT:** The patriotism of NFL player, Pat Tillman, giving up his NFL career and a \$3.6 million contract to join the military after the Sept. 11 attacks, where he recently lost his life in Afghanistan.

**MISS:** The brains of two local high school football players, one the reigning "Ohio's Mr. Football," charged with robbery and murder or their former Benedictine High School teammate (can you say felony murder?).

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C  
O  
M  
I  
C  
A  
L

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Here's a dilemma. Should the disclaimer for our client's new sleeping pill read, "May cause drowsiness" or "May not cause drowsiness?"

C  
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## The 1L Blues

By Donna Anderson

First Year law  
Is quite a chore.  
In school before,  
There was time to snore.  
The Socratic Method,  
Now what is that?  
Be prepared for class  
Or get bit in the ass.  
The books are huge,  
And they cost a lot.  
A comprehensive final?  
Our brains will be shot.  
It sounds so easy,  
One test at the end.  
But, oh man, the pressure  
In that room, my friend!  
To make it through  
You must love to read,  
And have more time  
Than you think you'll need.  
We learned a lot.  
We learned how to write.  
We learned to think differently  
Day and night.  
We've changed already:  
World affairs today  
Mean more to us now  
Than yesterday.  
But will we go on,  
We daily decide...  
It hasn't been fun.  
It's a bumpy ride.  
Please say the worst is over.  
It's what we want to hear.  
Or class size won't be an issue,  
'Cause we won't be back next year.  
If we pass our first year,  
Much credit is due.  
We're not halfway done yet...  
God, help us get through!

## Moot Court Year in Review

By Dean Williams  
Moot Court Chairperson 2003-2004

Whether Petitioner or Respondent, the goal is the same,  
you argue to win, and believe in your game.  
Some arguments are serious, and others delivered with a grin.  
A true advocate knows which is which, and exactly where to begin.

Farm Animal Advocates and intrusion upon seclusion,  
Old York's Public Trust Act and trademark reverse confusion.  
Is it content based or content neutral, are the elements inextricably intertwined?  
Is it strict or intermediate scrutiny, and how is quick look defined?

Quintessential public forum, First Amendment, and false light.  
Did the District of Georgalis get it wrong or did it actually get it right?  
Football teams excluded from play and the upheaval caused by their voids,  
A human-size parrot named Big-E-Bird and what tastes da best for da boids.

Are there less restrictive alternatives, and is public policy served?  
"Where do we draw the line counselor?" and "on these facts is compensation deserved?"  
We learn what arguments to abandon, and others we cannot concede.  
We learn where our safe harbors are, and never--ever mislead.

We begin, "May it please the Court," and end "May I briefly conclude?"  
We answer, "Respectfully no your honor," or "That's exactly why my client sued."  
Whether it's the vegan meals in Boston because darn it - Chickens have rights too  
Or the glitz and glitter of Times' Square, where there's always something to do.

There's a thrill in knowing your argument so well, and  
knowing the case law to the letter.  
Wise words from Professor Werber ring true, when you came to Moot Court you were  
already good, but we're going to make you better.

We rise to every challenge and make the arguments where other schools fall short.  
We do it for the love of the courtroom and law,  
we are Cleveland-Marshall Moot Court.  
Thank you, and good luck next year.

### SBA Wrap Up

continued from page 6--

the food was brought out in shifts. This was done so that night students would have the opportunity to eat as well.

All of the social events, except for one, were held off campus, for two reasons. First, the SBA did not want to use Aramark for *any* event. Aramark is responsible for the law school's snack bar and its reduced hours of operation. Consequently, the SBA did not want student money benefiting an organization that did not care about students. So, the SBA did not purchase one single item from Aramark.

Second, each event was held off campus so that the students could get away from the law school environment.

The Barristers Ball was also a huge success with well over 300 guests in attendance. Not only was the Ball well attended, but the student ticket prices were the lowest in several years even though the event was held at a venue as sought after as the Terrace Club.

**Lobby the Administration for Academic and Scholarship Reform:** The SBA entered this year with two academic goals and one scholarship goal in mind. The academic goals were to change the exam policy and change the pass/fail option. In terms of scholarship reform, the SBA wanted to see the administration provide more than a handful of scholarships for upper classmen.

The SBA lobbied the administration to change the "unwritten" exam policy so that students would not be forced to take two exams in one day. The administration modified the exam policy so that students would not have to take three exams in two days. While the SBA appreciates the positive movement, we must vehemently say that the policy does not go far enough. The administration and faculty should be aware that C-M is the *only* public law school in Ohio that forces its students to take two exams in one day. Additionally, Case Western Reserve University School of Law allows its students to reschedule exams if they have two exams in one day. The minimum objective

of every law school is (or should be) to provide a sound legal education and an opportunity for students to prove comprehension of legal material through fair examination. Consequently, C-M's administration should further modify the exam policy to allow students to reschedule an exam if they have multiple exams per day.

Additionally, the SBA lobbied C-M's administration to modify its pass/fail policy to match Case. Let's be honest, law school is difficult and students do not generally "get lucky" when they get good grades. If a student worked hard during the semester at a class he or she was worried about and received a good grade, then they should get the benefit of accepting the hard-earned grade. However, no decision modifying the pass/fail option has been announced by the administration.

Case's grading curve is also much more "student friendly" than C-M's. Case's progressive pro-student policies give Case law students a decided advantage over C-M students in terms of GPA and the ability to gain employment in this tight job market. C-M could address this trend by merely amending its exam and pass/fail policies. Let's not forget that these policy changes would not cost an enormous amount of money, if any at all.

At the beginning of the year, Dean Steinglass told the SBA officers that students were the only ones that could make the university change its decisions. Well, the administration should consider itself on notice that the students *want and deserve* the policy changes. In fact, I don't believe that it's a stretch to say that C-M *owes* its students a fair chance at good grades and a competitive chance in the job market. Lagging behind on progressive policies only hurts the students, it doesn't benefit the law school.

As for scholarships for upper-level students, Steinglass broached the matter of adding scholarships for 2L, 3L and 4L students at his Dean's Forum meetings. In a nutshell, he said that C-M did not do enough in terms of these scholarships and that it was unlikely to change. In response, the

SBA did its own fundraising and will be awarding \$3,500 in scholarships to upper level students. While \$3,500 is not a large sum of money, it is a good start and something to build on for future members of the SBA.

**Develop the Relationship With the Young Lawyers Section of the Cleveland Bar Association:** The CBA's Young Lawyer Section is instrumental in assisting young lawyers with a multitude of issues. This year the SBA and Jennifer Seme, 3L and secretary of the YLS, managed to recruit and register approximately 150 C-M students. Additionally, the section sponsored a fall social event and partially sponsored the last SBA social of the year held at the Clevelander on April 29. Hopefully, this relationship can be strengthened in the coming year.

**The SBA Officer Election:** The SBA Officer Election had some controversy. Complaints were filed, the SBA Election Committee addressed them and an appeal was filed with the SBA Senate. The senate is resolving the election issues in a manner that is fair to the candidates, the election process and the students.

Regardless of the outcome of the election, the students should remember that no matter who the SBA officers are, the real power of the SBA lies in the students. The officers and senators are simply the representatives and the mouthpieces of the students. While it is true that SBA officers receive stipends that cover part of their tuition, and while being a SBA officer is a nice addition to your resume, those are positively the wrong motivations for being an officer. The officers should passionately, but respectfully, advocate for the causes of the students, they should not accept an unjustified "no" as an answer to their requests and they should look to improve C-M in each and every way possible. Anything less than that is unacceptable in a SBA officer.

In closing, Michael O'Donnell, Brendan Doyle, David VanSlyke, and I would like to thank you for your trust and the opportunity to serve your needs this year. Hopefully, your trust in us was well placed.

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