



The Fairness Doctrine, debated

Political Broadside columnists Kevin Kovach and George Sakellakis go toe-to-toe on a hot topic.

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Happy Valentine's Day!

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New Health Advocacy Law Clinic

C-M offers students yet another opportunity to get the experience they need in an ever-changing job market.

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THE GAVEL

VOLUME 57, ISSUE 4, FEBRUARY 2009

THE STUDENT NEWSPAPER AT CLEVELAND-MARSHALL COLLEGE OF LAW

Moot Court International Law Team dominates Atlantic region

By Rick Ferrara
CO-EDITOR IN CHIEF

Danja Therecka had just finished telling her husband that the International Moot Court competition trophies were globes, set atop pedestals. He asked if she got one, and she proudly replied, "We got them all!"

This past week, Therecka and her teammates, Carrie Lewine and April Stephenson, won the championship in the Atlantic Round in the International Environmental Moot Court Competition at the University of Maryland. The team was able to capture every globe-trophy offered at the competition – one for best brief, and one for the winning oral argument.

Teams from twelve law schools in the U.S. and Canada participated in the competition, arguing a hypothetical case before the International Court of Justice. The C-M team successfully argued their case concerning one country's seizure of another country's fishing boat, allegedly overfishing krill in Antarctic waters.

But the victory did not come without its difficulties. One week before the competition would take place, April found herself feeling sick. She checked in with the CSU health center on Monday and was immediately referred to an emergency room, X-rays were taken, and by Wednesday she was informed she had bronchitis. The doctors told her it was a precursor to pneumonia.

"I was in bed the entire weekend of the competition," Stephenson recalled in a recent interview with team. Therecka,



From left: Danja Therecka, Carrie Lewine, and April Stephenson; champions of the Atlantic Region of the International Environmental Moot Court Competition. Photos left and center courtesy of the University of Maryland. Photo right by Rick Ferrara.

who had prepared the same argument and planned to split time with Stephenson in court, would take over the role completely. Lewine and Therecka sent her text messages throughout the weekend, and Stephenson often replied with encouraging comments to the team for oral arguments.

The competition, after all, placed heavy weight on the quality of competitor's presentation in court. While teams were required to write a brief, it was calculated as only 1/3 the total score of the round they would argue. The remainder of the team's score would come from how well the team presented their arguments.

Lewine and Therecka were comfortable in this role and comfortable with the com-

See **Moot Court**, page 2

As Barrister's Ball approaches, SBA planning falls into place

By Tara Chandler
STAFF WRITER

This year, the SBA has taken a fresh approach to the annual Barrister's Ball. First, the basic details: the event will be held on Saturday, March 7 at 6:30 pm, at the Marriott Hotel in Key Tower.

To go along with the more formal location, the committee has also approved a 1930's/Old Hollywood red carpet theme. Guests are encouraged to wear black and white attire to further this more glamorous theme than in years past. (Note that while you will likely not be kicked out of the venue for a splash of color, the committee is requesting everyone participate to assure the theme is pulled off).

The event is traditionally held in the spring so as not to conflict with finals preparation and/or a lack of funds post spring break. Prior Barrister's have been held at well known landmarks of downtown Cleveland, including Cleveland Brown's Stadium (sorry boys, looks like you missed it!), the Old Courthouse, Palace Theatre, and more recently the Hyatt Arcade and Windows on the River.

It has always been considered a formal event, although it has become more lax over the years. The SBA takes pride in including significant aspects of Cleveland in the event, such as the location, and as such faculty and alumni are encouraged to join the current students.

SBA President Elias Hazkial, realizing that some students may feel uneasy with

this, notes that their role is significantly smaller in comparison to the students in attendance. As he puts it, while making a strong showing, the alumni are still "conscious to not overwhelm or intrude the students with their attendance."

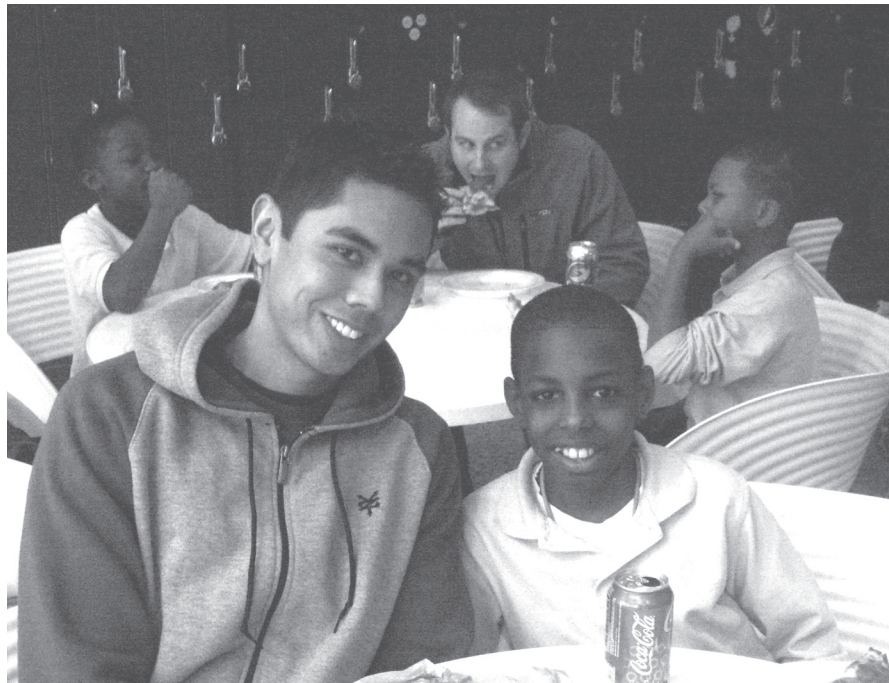
The event is also affectionately dubbed "Law School Prom" by both current and past students (think high school cafeteria, lockers...there are some eerie similarities). However, Hazkial also comments that some alumni remember Barrister's as a black tie event. With this in mind, Vice President of Programming, Allison Taller and the event committee, comprised of SBA senators, made the conscious decision to tour possible venues this year and raise the bar for a classier, dressy event.

One of these senators, Jeffrey M. Jerome, recalls narrowing the field of themes down to five or so choices. From these choices the committee had a hard time choosing just one, and so decided to combine the dressier Black and White Ball and Old Hollywood Red Carpet themes, which effectively play off of each other well.

This year the committee has also added a new element. When purchasing tickets students will be able to fill out a ballot, nominating fellow students for some fairly unique categories.

This ballot includes options such as, Who will be a reality tv star?; Who is most likely to be on a billboard?; Who will have their life made into a biography?; and, the sure to be popular - Most likely to defend

See **Barrister's**, page 6



3L Mike Gonzales sits with his Little Brother, Cordell, at a recent Big Brothers, Big Sisters event.

Photo by Regina Fisher

Hone your advocacy skills at C-M Moot Court team takes C-M to become an effective practitioner M to top sixteen in nation

By Geoffrey Mearns

One of the ways in which we prepare you to serve clients is to teach you how to be an effective advocate. To become a successful advocate, you practice. You will gain that practice and the necessary communication skills in our legal writing program and through experiential courses such as our moot court program, our ex-



The Dean's Column

ternships, our clinics, and our trial advocacy program. All of these programs offer opportunities to develop the listening and communication skills that are essential to strong advocacy. Our moot court program has an exceptional, 35-year history of success in national competitions. You are carrying on that winning tradition.

In November 2008, our moot court team of Megan Miller, Callie Modic, and Alex Reich won the regional championship for the National Moot Court Competition. Earlier this month, these same students competed in the final rounds in New York City. They qualified for the "sweet sixteen" round, and their brief was one of the best in the country.

That same weekend, Carrie Lewine, Danja Therecka, and April Stephenson won the North American (Atlantic) Rounds of the 13th Annual Stetson International Environmental Law Competition. Next month, these students will travel to Florida for the final rounds of this competition. There, they will test their advocacy skills against law school students from around the world.

Our law school, which opened its first clinic in the mid-1970s, was a national leader in clinical legal education. Today, that clinic is the Employment Law Clinic. In this clinic, students handle such matters as unemployment compensation, wrongful termination, discrimination and other statutory claims.

The Urban Development Law Clinic has emerged as an important community resource for improving the economic and social stability of the city's at-risk neighborhoods, while students in the Environmental Law Clinic perform practical legal work on behalf of non-profit environmental organizations.

If you enroll in the Fair Housing Law Clinic, you will represent victims of housing discrimination in both state and federal, court as well as before administrative agencies. In the Law & Public Policy Clinic, you will research and draft policy options for local and state governments.

Like many students before you, you may find clinical experiences among the most meaningful and satisfying of your legal education.

One of the best exposures to the practice of law is through a strong externship program. We have such a program.

As an extern, you will observe, learn, witness and practice law in government offices, the chambers of a state or federal court judge, the office of a hospital's legal department, and in many other venues. It is one of the law school's most worthwhile opportunities.

Our law school has graduated some of the best trial lawyers in the region. Many of these lawyers began their careers as students in our trial advocacy program. These courses help future litigators understand the relationship between evidence,

substantive and procedural doctrine, and how these come together at trial. Perhaps as important, you can develop self confidence and the ability to evaluate the strengths and weaknesses of a case and to create winning trial strategies. The program also sponsors two competitive trial teams that have distinguished themselves locally and nationally.

In the next few years, all our advocacy programs will be greatly enhanced by a technologically sophisticated trial courtroom. Located on the ground floor immediately adjacent to the new clinic offices, it will be a place for the school's mock trial teams to prepare for competitions and for new attorneys and trial attorneys to rehearse their arguments in a venue that simulates an actual courtroom—complete with judge's bench and chambers, jury box and deliberation room, witness stand, a visitors' gallery and all the elements of modern trial presentation technology.

The courtroom is an expensive undertaking, and we must raise the funds ourselves. For that, we will once more turn to our friends and our alumni.

We also hope that our graduating students will select this project as the focus of the 2009 Graduation Challenge fund-raising efforts. If they do, they will be helping to build a resource for generations to come.

THE GAVEL

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By Rick Ferrara

Co-EDITOR IN CHIEF

Continuing what has been an impressive year for the C-M Moot Court program, the Nationals team ranked in the top sixteen in the country.

The team, consisting of Alex Reich, Megan Miller, and McAllister Modic had recently won the Midwest Region Championship to secure a bid in the final rounds in New York City.

The final rounds of the competition, run by the New York City Bar Association and co-sponsored by the American College of Trial Lawyers, featured the top 28 teams from around the nation.

Again, the C-M hopefuls performed solidly in the preliminary rounds, successfully defending their undefeated record against Suffolk University and George Washington University law schools.

Reich, Miller, and Modic had reason to be confident in their chances going forward. Their brief was the best petitioner brief, and ranked fifth overall. On a scale of 0-90, only 0.75 points separated the C-M brief from the best overall brief of the competition.

"We knew that at that point, statistically, the brief score could never hurt us; that we only had to beat our opponents by one point on oral argument," Reich said in a recent phone interview.

Even with that knowledge, the team knew

that the competition was only going to get better. Reich knew he and Modic had to leave it all on the table in the sweet sixteen round against the University of Pennsylvania.

"We all felt great about the round, and the opposing team thought we did good. Calli and I felt strong about our performance, but it turned out the judges disagreed," Reich said.

Ultimately, the University of Pennsylvania would put an end to C-M team's undefeated streak, and end their chances to advance to the "great eight" round of the tournament.

Although the tournament ended earlier than they would have liked, the C-M team had an impressive run. The top sixteen finish is the first such return to the national stage since 2005.

C-M conquered six different schools in seven rounds on its campaign, including Ohio State University, Wayne State, Suffolk University, George Washington University, Cooley Law School, and Capital University.

As well, the team brought home awards from the Lansing, MI regional for Midwest Regional Champion, Second Best Brief Overall, Best Advocate for the Final Round (Alex Reich), and Best Advocate for the Preliminary Rounds (Alex Reich).

Already, the team members hope to share their success with C-M colleagues - each will mentor a moot court team this spring, continuing the winning tradition of an impressive program.



Participants enjoy a view from the bench at the recent Big Brothers, Big Sisters event.

Photo by Regina Fisher

Moot Court... -continued from page 1

petition format. Both advocates travelled to the same competition the year prior, and enjoyed it so much that they wanted to return. This year, they noticed the overall quality increased, especially in terms of the judges covering the competition.

"The judges were very good this year, in that they appeared very knowledgeable of international law, and well prepared in general," Carrie said.

Therecka noted the same: "There were many executives of NGO's working as judges at the event. After making some specific declarations in court, it made me a bit nervous. I just had to trust that I was right."

The team's background gave a solid foundation for that trust. Each team member had traveled internationally and made international issues the centerpiece of their law school careers.

Therecka, especially, had a great deal of experience in international relations. She is a U.S. citizen, but was born in Albania. She speaks fluent English, Italian, French, Spanish, and Albanian, majored in International Relations in undergrad, holds a Masters in International Relations, and worked at the prestigious Brookings Institution before attending law school.

Consequently, Therecka and her team were prepared to accept the challenge of the competition, which got more intense in the later rounds. The semifinals marked the middle of a three-

round marathon of preparation and argument, spanning from 11 A.M. to 7 P.M.

Therecka and Lewine finished arguing versus Wake Forest in the semifinals to find that they had won, and for a reason that reminded them of the contribution of their ailing compatriot - the C-M team brief score catapulted them ahead of Wake Forest in point total, ensuring victory.

In the finals, C-M faced John Marshall, and Lewine's ability to counter her opponents arguments made all the difference. "She really enjoyed getting in good rebuttals by the end of the competition," Therecka said, "which she would come up with on the spot. She was awesome."

The team won their round and won the Atlantic region of the tournament. The win marks another success for the Moot Court program at C-M, headed by Prof. Steven Gard. Already this year, the program produced a team ranking as one of the top sixteen in the country at the National competition; as well as a second place finish and best brief in the Wechsler competition.

Now, the international environmental law team plans to face finalists from the Pacific region on March 25-28th. They will head to Stetson University School of Law, in Florida, to face John Marshall, Florida State, and Wake Forest. This time, Stephenson will join Lewine and Therecka for oral arguments to mark another C-M effort to bring home the globes.



TICKETS ON SALE NOW!

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SATURDAY MARCH 7TH, 2009

6:30 PM

THE MARRIOTT AT KEY CENTER

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MONDAY - THURSDAY 12:00-1:00 PM AND 5:00-6:00 PM
AND FRIDAY 12:00-1:00 PM
THROUGHOUT THE MONTH OF FEBRUARY

STUDENTS: \$50

FACULTY/STAFF/ALUMNI: \$80

*STUDENTS MUST HAVE THEIR I.D. TO PURCHASE TICKETS



First Health Advocacy Law Clinic in Ohio available at C-M starting Fall 2009

By Michelle Todd
CO-EDITOR IN CHIEF

Beginning in the Fall 2009 semester, C-M will be the first law school in Ohio and only the ninth in the country to offer students the opportunity to work together with legal and medical professionals to help needy individuals in their communities.

The brainchild of C-M Pro Bono Program Director Pam Daiker-Middaugh, the new Community Health Advocacy Law Clinic (CHALC) will be open for enrollment to approximately 4-6 second and third year law students and will assist some of Cleveland's poorest residents facing a variety of legal problems.

Daiker-Middaugh developed the concept for this new clinic at the request of Dean Geoffrey Mearns.

“Dean Mearns came to me and wanted a new public interest clinic formed at the law school,” Daiker-Middaugh said. In order to determine what kind of public interest clinic to start, Daiker-Middaugh interviewed numerous Cleveland non-profit organizations, including the Legal Aid Society of Cleveland, in order to get a feel for what the community needed.

After her research, Daiker-Middaugh decided that C-M students would benefit most from entering into an already existing partnership, the Community Advocacy Program (CAP), with the Legal Aid Society of Cleveland and MetroHealth System, the city of Cleveland's charity hospital. “Legal Aid and MetroHealth were already in a partnership, so it made perfect sense that students could start working together with the law-

yers and doctors,” she said. “Hospitals are really the new community centers because many patients want to tell their doctors and nurses about the legal problems they're facing,” Daiker-Middaugh added.

CHALC's involvement with CAP will allow students to provide advice and counseling to the city's elderly and low-income families with respect to a variety of legal issues they face. CHALC students will work in numerous areas of law, including special education law, public benefits, disability law, housing law, and immigration law.

Daiker-Middaugh also noted that those students with a strong interest in children's law should definitely consider enrolling in the clinic. “Often special needs children

with disabilities require legal assistance to make sure that they receive the benefits they need,” she said.

—C-M Pro Bono Program Director
Pamela Daiker-Middaugh

Although only approximately 4-6 students will only be able to initially enroll in the CHALC for three credit hours, Daiker-Middaugh hopes that eventually the clinic will grow. “We plan on starting out very small, but in the future we would like to expand and allow more students to enroll for multiple semesters,” she said.

In the event that student demand exceeds the available seats in the CHALC, Daiker-Middaugh said she plans on interviewing students to select those who will join the clinic. “I will be looking for students who have the communication skills and confidence to deal with clients,” she said.

She also added that students who speak Spanish fluently would be given special consideration, as many of the CHALC's potential clients may not speak English.

The Presidential Oath of Office: Controversy past and present

By Joe Fell
STAFF WRITER

Whether you spin it as yet another example of Bush-era appointee incompetence or portend it as a harbinger of future mistakes and incompetence of the Obama administration, the bungling of the Oath of Office by Chief Justice John Roberts during now-President Obama's inauguration ceremony on January 20th was an unexpected hiccup that provided an unwelcome distraction as our nation celebrated the inauguration of our first African-American president.

Until the multitude of inaugural balls began later in the evening and the commentators stopped being policy wonks and became fashionistas, discussion and debate about Roberts' error dominated the news coverage, gaining more attention than other events of a more serious nature, such as Sen. Ted Kennedy's seizure at the inaugural luncheon.

However, this wasn't the first time that Chief Justices have had trouble with the oath of office—it was simply the first time that the error was publicized. In 1909, during the inauguration of William Howard Taft, Chief Justice Melville Fuller improperly quoted the oath; however, the error never received widespread attention due to the fact that this particular flub occurred in the era before radio covered the event.

Ironically enough, Taft — who became Chief Justice of the Supreme Court after his presidency flubbed the oath himself during the inauguration of Herbert Hoover in 1929. This time, however, the error did not go unnoticed. A 13-year old girl named Helen Terwillinger caught the error as she listened to the radio broadcast of the inauguration and proceeded to engage in an exchange of letters with Taft about the issue. Although he initially denied his error, Taft was eventually proven wrong by a replay of the radio broadcast.

Retaking the oath of office — which

Obama did the next day is also not a new phenomenon to the American presidency. In fact, two other presidents had the luxury of first taking the oath of office in the comfort of their family homes, late at night...and oddly enough, both of these men did so after the death of presidents born in Ohio.

Chester A. Arthur first took the oath of office at his home following the assassination of President (and Cleveland-area native) James Garfield. Calvin Coolidge first said the all-important 35 words of the oath of office while visiting his family home after Warren G. Harding died from a heart attack. Both Arthur and Coolidge later took the oath in a more formal setting.

Getting back to 2009, legal scholars varied widely as to the significance of Roberts' slip-up. In fact, two law professors on the faculty of George Washington University's School of Law had differing views on the matter. Jonathan Turley, who spoke at C-M last fall, said, “He should probably go ahead and take the oath again. If he doesn't, there are going to be people who for the next four years are going to argue that he didn't meet the constitutional standard. I don't think it's necessary, and it's not a constitutional crisis. This is the chief justice's version of a wardrobe malfunction.” His colleague, Jeffrey Rosen, was more direct in his assessment of the situation: “No impact. News flash: He's President.”

As you probably know by now, Obama retook the oath of office on Wednesday, Vice President Joe Biden added to his mile-long list of gaffes with a joke that called Chief Justice Roberts' memory into question, and life in Washington quickly returned to normal. Whether or not anything significant would have transpired in the legal and constitutional arena had Obama not retaken the oath is best left to conjecture at this point. There is one fact, though, that has been and will continue to be simple, plain, and true: history repeats itself.

On sabbatical: An update from C-M Prof. David Forte

Compiled by Paul Deegan
CO-EDITOR IN CHIEF

The Gavel contacted Professor Forte, who is on sabbatical, to ask him a few questions about what he is doing while away from C-M.

For those of you who don't know him, Professor David F. Forte has been teaching at C-M since 1976. Last year, he was awarded the Distinguished Faculty Award for Teaching by President Schwartz at the University Convocation. He has given over 300 addresses and lectures at over 100 academic institutions. Previous sabbaticals and leaves have taken Professor Forte to The Heritage Foundation in Washington, The Liberty Fund in Indianapolis; the United Nations in New York; as well as teaching and research stints in Lodz, Poland, Berkeley, California, and Trento, Italy.

How are you spending this Sabbatical?

I'm having the time of my life. I am at The Witherspoon Institute in Princeton, New Jersey, as Senior Scholar at the Center for the Study of Religion and Constitution.

What is the Witherspoon Institute?

The Institute is one of many free-standing research and academic centers like the Center for Advanced Studies and the Princeton Theological Seminary, which are

not formally tied to Princeton University, but which enjoy many co-operative connections, including having common faculty members.

Are there other Fellows and Scholars?

We total around a dozen. Along with the fellows from the Madison Center in Princeton's Department of Politics, there is an outstanding group of scholars with me. Most have published major works in the field of constitutional history, political theory, philosophy, and modern political issues. We meet weekly for general conversation, and we also have formal sessions where we present our ongoing work for comment and critique.

Together, the Madison Center and the Witherspoon Institute also host major speakers and conferences and we have small dinners and conversation with these visitors. So, for example, we heard and spent time with Michael Burlingame, author of 12 books on Lincoln; Alvin Felzenberg, author of a new book on rating the presidents, *Leaders We Deserved* (and a *Few We Didn't*); Charles Kesler of the Claremont Institute; John Finnis of Oxford and Cambridge; Michael Krauss from George Mason Law School, who gave a withering critique of Judge Richard Posner's work; Hadley Arkes from Amherst; Eric Cohn, a medical ethicist; Philip Hamburger

from Columbia Law School, whose book, *Separation of Church and State*, is now the dominant treatment of the subject, William B. Allen, Michigan State University, who has written on *The Federalist Papers* and on *de Tocqueville*, and many others. We also have contact and discussions with people on the Princeton faculty. I have spoken with experts in Jewish Theology, Islamic Studies, Anthropology, and Political Theory.

What are you working on?

Well, we were warned when we arrived not to expect to get much done. And as you can see from the partial list of activities above (and I did not include the cultural activities), they were right. But I have made progress on two major fronts. On the first, my separate studies into the thought and careers of Chief Justice John Marshall and Justice Benjamin Cardozo have led me to do some writing on what makes for a judge a "good" judge, or, as the founders would say, what makes for a "virtuous" judge? I am trying out my ideas in a series of lectures and debates. Second, I am investigating how scriptural interpretation in the Jewish and Islamic traditions handle divine commands to do violence to other peoples. Here I have had the benefit of consulting with some of the foremost theologians in the country.

How is living in Princeton?

Great! I live in a nice new apartment

complex with all the amenities one would want, and I drive 15 minutes along a canal, by farms and fields, and through the Princeton Battlefield to the restored mansion in which I have my office. It's a delight to travel and a delight to arrive in every season, including now, in winter. But that's not the best part of my commute.

What's that?

I have to wear sunglasses.



Timing the right job, making the right decision

By Karen Mika

LEGAL WRITING PROFESSOR

When is the best time for a first year student to look for a summer job? Most of the people in my study group have been looking for jobs all semester. I'm starting to get nervous, but I would like to concentrate on finals.

Legal Writing

I think one of the primary mistakes that first year students make is trying to decide who they're ultimately going to be during the first week in school. Sometimes you lock yourself into people and situations that prove to be the worst of all possible decisions in the long run.

The same goes for that first summer job. I won't say don't keep your eyes open, but I will say, don't jump too quickly at the first thing that you see because you fear you won't get anything else. Although the economy is bad, law clerks make less than attorneys and there might even be more of a market for cheap labor in this economy than in a good economy.

I advise, take your time and see what's out there, but if it's not something that you truly want to do, check back again a little later to see if there is something more suit-

able. Also, put all of that on hold if and when it impedes your studies. Try not to take employment that starts now, especially if your grades weren't as great as you would have hoped in the fall semester.

Remember that a poor decision as to where you will be employed could be as bad as not being employed at all. While experience is nice, and may be beneficial

for acquiring employment later, a job in which there is no mentoring or guidance might not be such a great position to be in.

Additionally, try not to get locked in with an employer who will not give you time off once the school year begins (assuming the employment extends beyond summer).

Many employers are accommodating at first but often put pressure on students to work more hours than they should. This will cause time problems once the school year begins, and that could result in a poor performance in your classes.

Also, consider other options for the summer - studying abroad, participating in a clinic, volunteering for an internship. Although for some, money is tight, some of the best experiences (and contacts) will come from situations where you have to make an investment (rather than get paid).



Students reminded to remain vigilant after law school thefts

By Mike Borowski

STAFF WRITER

According to weekly online report logs provided by the Cleveland State University Police Department there have been 155 reported incidents of theft on the campus and approximately 181 criminal trespass warnings or citations issued since the beginning of the 2008/2009 school year.

While these statistics represent the entire CSU campus as a whole, there have been several instances of theft and criminal trespassing reported that directly involve the law school. Most recently in the building, a piece of artwork was stolen directly from the wall and several students became the unfortunate victims of theft when they reported that their laptop computers had been stolen. Most of these incidents are reported to have taken place during normal operating hours when the building was filled with students and staff.

While opportunity theft can be a problem at any university, it is certainly a problem that members of the law school community can take steps to prevent. Cleveland State University is a public university with large numbers of students, staff, and general public utilizing the campus and its facilities throughout the day. Students should always remain aware of their surroundings and belongings at all times. According to the university police website, "Opportunity theft is the most frequently occurring

crime on campus. Leaving books, purses, and other property unattended - even for a few seconds - provides the thief with a golden opportunity to take your valuables. For your own protection, keep your property under your control at all times."

Students and staff are reminded that locked doors should not be propped open and left unattended for any period of time. This is a breach in security and may allow unauthorized people to enter a building or room.

Students who observe what they believe to be suspicious activity or individuals while on campus are encouraged to contact the university police department to report the event or individual. Officers will respond and determine if the incident requires further action. Students can use campus phones or emergency blue light phones located throughout the campus to report suspicious activity. The university police department can also be contacted at (216) 687-2020.



The Political Broadside

Weighing the value of the Fairness Doctrine

By George Sakellakis

CONSERVATIVE GAVEL COLUMNIST



In a hopeful era when it seemed that George Orwell's cautionary tale would not come to fruition, America rejected the inappropriately named "fairness" doctrine, which through hefty fines and the power to revoke licenses, mandated that broadcasters divvy up airtime equally on differing viewpoints of "controversial matters of public interest."

Today, President Obama has stated that he does not support the reinstatement of the doctrine. But citizen beware – Obama, by way of a change of heart brought on by congressional prodding, could order the FCC to reinstate the doctrine on a whim, and shove the electronic

equivalent of rotten meat down our symbolically vegetarian throats.

In 1949, when the fairness doctrine was instituted, television and AM radio were the primary source of media for Americans. Most markets had access to only a few stations, some to just one, and the mandated airing of opposing positions (though arguably unconstitutional then) at least made a scintilla of sense. In 1987, facing increasing judicial hostility towards it, the FCC dumped the policy not only due to its repugnance to the first amendment, but also because it just wasn't working. Broadcasters sometimes chose to avoid covering politics and contentious issues altogether, and the ones that still did lacked the vigorous debate of a time more free.

Since then, Al Gore's invention of the internet spawned countless political blogs for everyone's taste, and there are myriad AM/FM radio stations, television channels, podcasts, satellite radio feeds, books and other publications that offer plenty of conservative, liberal, and middle-of-the-road ideas. When I want to see what the liberals are up to, I take in some Keith Olbermann or read up on the New York Times' Frank Rich. And when feeling sickly and in need of evacuation, I've even been known to listen in on the Al Franken Show. The point is, we know what we want to listen to, we know what we probably should be listening to, and we know where it can all be found. Most importantly, it's us making the decision; not some fool in D.C. who wants to play master of puppets.

Unfortunately, after numerous fruitless attempts to resurrect the doctrine, we are encountered with some crafty officials who want to bring it back under a different name. (What was that about putting lipstick on a pig?) Nancy Pelosi, the liberal leader of a majority Democrat house that we elected, thinks our minds are full of conservative thoughts, and that it's affecting our minds at election time. Comrades like Harry Reid and John Kerry, liberal leaders among a majority Democrat Senate that we elected, want the power to "balance" programming so that we will elect even more of them. In a country that just elected a Democrat president despite countless (and well deserved) conservative media attacks, I can't see any other motive for reinstating such a doctrine other than the beginning of total domination of our thoughts. What country is this again?

I don't worry so much about the doctrine's actual resurgence, since it appears to be just far left fad. Even Jon Sinden, the founder of Air America, opposes its return, and I will hold President Obama to his word that he doesn't want it back either. But the mere fact that there are American citizens (especially those who took an oath to protect and defend the Constitution) that support exhuming the failed scheme, even in today's political and technological climates, is alarming. The truth is, in a free country, it is not the prerogative of the FCC to insert, remove, or balance the words in people's mouths and ears by controlling the content of radio broadcasts.

We must rid ourselves of the notion that a big government has our best interests in mind, and the associated willingness to cede our rights. If we, a people that are fully capable of forming and exchanging our own ideas without big brother's assistance, obediently roll over and let government rub our bellies, eagerly hoping for a round of fetch but completely relying on him to provide us with our daily walk and an equitable redistribution of provisions, personal thoughts, and milk bones, then I guess we deserve the master/dog relationship that comes with an all too-powerful government – the relationship that George Orwell so strongly warned us about.

Liberal rebuttal. . .

You confuse the Fairness Doctrine with the Equal Time Rule. The Fairness Doctrine does NOT mandate "that broadcasters divvy up airtime equally," as you have falsely alleged. The conservative columnist on this page two years ago shared with me two commonalities—a broken nose and a belief that the State of Ohio lacks a valid argument to destroy most Home Rule-based residency requirements. To these, we now add a third, as I hereby co-opt his favorite retort, "facts matter."

The Equal Time Rule requires broadcast stations to provide equivalent airtime to opposing political candidates, making exceptions for documentaries, news interviews, standard newscasts, and live on-the-spot news events like political conventions. The Communications Act of 1934 codified the Equal Time Rule as 47 U.S.C. Section 315(a). Section 315(a)(4) appears to foreshadow the Fairness Doctrine with the following language:

"Nothing in the foregoing sentence shall be construed as relieving broadcasters...from the obligation imposed upon them under this Act to operate in the public interest and to afford reasonable opportunity for the discussion of conflicting views of issues of public importance."

Though I may confuse grammatical rules, I believe you combine a present participle with the past tense passive when you write, "when feeling sickly and in need of evacuation, (you have) even been known to listen in on the Al Franken Show." As you center your general argument on a straw man, I feel compelled to inform you that Franken ended his radio show February 14, 2007 to begin his campaign to represent Minnesota in the Senate. I appreciate your confusion. Norm Coleman, Franken's vanquished opponent, continues to employ legal machinations to prevent everyone's crazy Irish uncle, Joe Biden, from swearing-in Senator-elect Franken.

The web provides innumerable research channels. Please utilize a few.

By Kevin Kovach

LIBERAL GAVEL COLUMNIST



Unless you are either on the wrong side of thirty or a disciple of right-wing talk radio, you may have never heard of the Fairness Doctrine. This is understandable, as the Federal Communications Commission repealed the policy in 1987, and scarcely anyone, save for talk radio hosts, discusses the matter today. Why are hosts like Rush Limbaugh so obsessed with the regulation? Perhaps they are like playground bullies, who attack out of fear of being exposed for the insecure people who lie beneath the facade.

The Fairness Doctrine requires broadcast stations with FCC licenses to allocate airtime to discuss controversial matters of public interest, and to air contrasting

views on such issues. This measure neither mandates equal time, nor dictates how stations should meet their minimum requirements. Rather, license holders receive broad latitude in complying with the guideline, and merely have to allot time for each side. For example, every cable news network, including Fox News and MSNBC, easily meets the minimum standards of the policy, because it presents advocates for each side of issues. The FCC adopted the Fairness Doctrine in 1949 and enforced the regulation for 38 years, until Ronald Reagan's crusade to deregulate everything but jellybean production killed the rule.

As I mentioned, only reactionaries—or as Franklin Roosevelt labeled them, somnambulists walking backwards—are presently focused on this topic. Perhaps other folks are more concerned with that economy thing. Nevertheless, right-wingers continue to denounce the purported evils of all regulation, financial and otherwise, even after lust for laissez-faire has again pushed our society to the brink. Meanwhile, revisionists have once more begun rewriting history, adamant that a hands-off approach solves everything. They likewise appear to enjoy distorting the Fairness Doctrine.

Republicans have recently taken to the airwaves—or, in the case of Senate Minority Leader Mitch McConnell (R-Ky.), the floor of the United States Senate—to proclaim that the New Deal failed to improve the Depression-era economy. History disagrees. At the beginning of the New Deal in 1933, official unemployment was twenty-five percent. By 1941, unemployment had fallen forty percent, to fifteen percent of the workforce. An average annual unemployment reduction of five percent in the depths of the worst depression in history seems rather significant. In addition to the increase in jobs, gross domestic product rose steadily from 1933 to 1941, with one exception. Roosevelt cut spending in 1937, thereby creating a new recession. When FDR restarted the New Deal, GDP rose anew.

Armed with an example of how reactionaries unabashedly misrepresent simple facts, we can now address their shameless distortions of the Fairness Doctrine. Intransigent conservatives call the Fairness Doctrine unconstitutional, even though the Supreme Court found it constitutional in the 1969 case *Red Lion Broadcasting Co. v. FCC*. In *Red Lion*, the Court held that the First Amendment cannot tolerate monopolization of the marketplace of ideas.

"Now friends," in the words of Limbaugh, blowhards like "El Rushbo" claim the Fairness Doctrine is meant to destroy conservative talk radio, even though conservative talk radio emerged and thrived while the Fairness Doctrine operated. The regulation merely prohibits stations from repeatedly broadcasting one perspective without ever presenting an opposing view. Right-wingers argue the stipulation stifles speech, apparently by mandating that the marketplace of ideas contain more than one viewpoint. Rush and friends call the Fairness Doctrine a backdoor maneuver to proliferate financially unviable liberal talk radio, but the target is the very existence of wholly one-sided broadcasting. The ultraconservatives maintain listeners can filter the facts, even when current FCC guidelines permit one company both to own half of all stations in a city and to limit airtime to one side of a political issue.

Finally, Fairness Doctrine opponents aver that reinstatement would render talk radio unprofitable. Yet in 2004, after Sinclair Media ordered its sixty-two television stations to pre-empt primetime programming with a defamatory, anti-John Kerry "documentary" and no time for the other side, Sinclair's stock price dropped seventeen percent. This suggests homogeneity, not an open marketplace of ideas, poses financial risk. If right-wing talk radio zealots are convinced of the truth of their views, why are they so afraid of the Fairness Doctrine? The biggest bullies are usually the most insecure among us.

Conservative rebuttal. . .

Liberal viewpoints on issues like this, with their requisite beliefs that politicians are smart and caring enough to decide what's good for us, are exactly what is wrong with this country. Recent liberal strategy opportunely advances these perspectives by replacing substance with confusion, redirection, and pre-planned talking points, as evidenced by the providing of a crazy answer explaining the alleged success of the New Deal to a question about the fairness doctrine. Evidence of the tactic is evident when free minds are so carelessly flushed down the toilet with every passing Oprah Winfrey show. So goes our liberty.

The fairness doctrine, as modernly applied, violates the first amendment. The 1969 *Red Lion* Court gave credence to a 1959 Senate report that cited the need for the doctrine because of the limited spectrum of the public airwaves. In *FCC v. League of Women Voters of California* (1984), it was suggested that expanding sources of media have made the doctrine obsolete. Just imagine how truly obsolete it has become from 1984 to the fast-approaching second decade of the twenty-first century.

Mandating balanced reporting with vague, malleable standards opens a door that unapologetic Soviets like Mrs. Pelosi just should not be allowed to pass through. And arguing Rush Limbaugh's personal concerns to advance that mandate is the classic liberal tactic of confusion. No partisan, conservative or liberal, Democrat or Whig, can ever be trusted to define and enforce terms like "honest," "balanced," and "equitable." I think our framers contemplated a society where the people could define these words by themselves.

Somnambulists indeed - in the form of citizens who watch this debate unfold and respond with "what's the big deal?"

Students involved and ready for Barrister's Ball

By Elias Hazkial

SBA PRESIDENT

My fellow classmates, I regret to report to you some bad news but I trust it will be offset by the good news that follows. First, as you may have noticed

SBA President

there are no new lockers. Simply put, there are budgetary issues with the University that could not be overcome in time. Due to the current economic crisis our nation is experiencing, the University is exercising very strict scrutiny on all expenditures over \$5,000.

Even though the money is in our account and we technically have the liberty to spend it according to our needs, there are a few procedural hurdles that tripped us up in the process. This does not mean that I am stopping my efforts to acquire replacement lockers for the dilapidated ones that we currently use. All I am saying is that new lockers won't happen as soon as previously anticipated. Please accept my sincerest apologies for failing to make the original benchmark date. To those who don't have much experience with large, expensive projects subject to different offices and levels of oversight, it is almost natural and expected for target dates to get pushed back.

Now, the good news: Our law students are active and involved! On January 31, over two dozen students came to school at 9:00 am to become certified, volunteer tax preparers.

These students will help local citizens maximize their income tax returns on Monday evenings during this tax season, free of charge. Also, the Entertainment and Sports Law Association (ESLA) hosted over 60 people at a Lake Erie Monsters hockey game on, February 6. The Student Public Interest Law Organization (SPILO) held a wine tasting and silent auction at the law firm of Thompson Hine on February 11. This event raised money to send student volunteers during Spring Break to aid in Hurricane Katrina relief efforts in New Orleans.

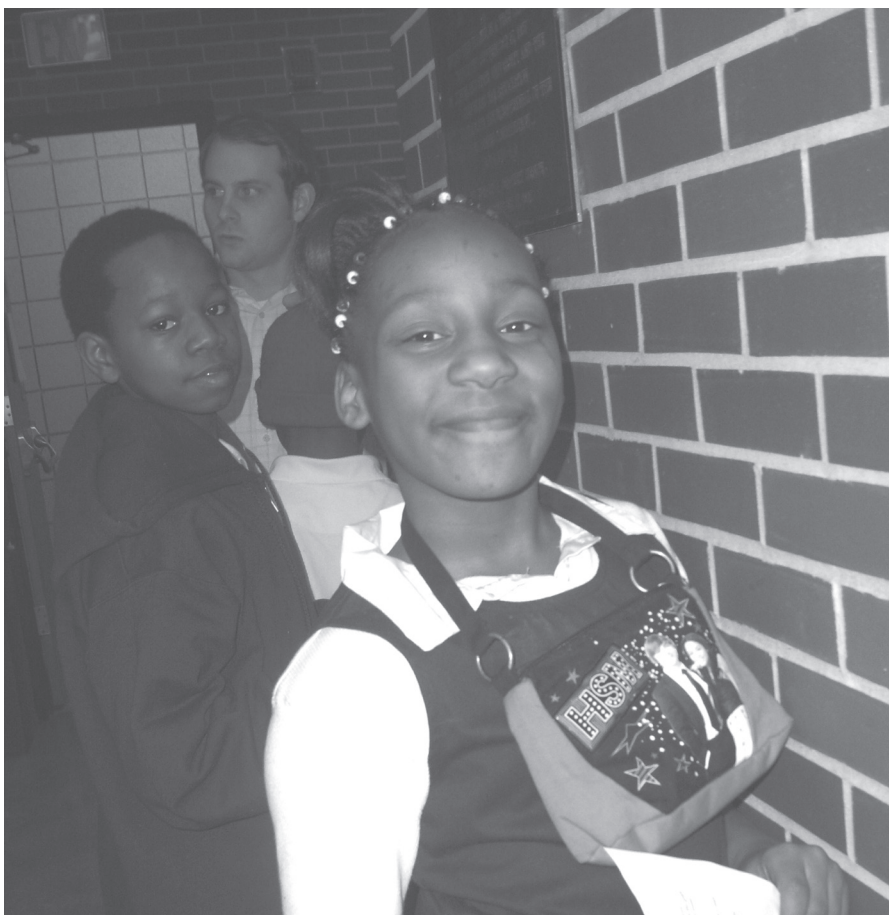
Every other Friday afternoon, nearly two dozen law students volunteer their time as Big Brothers and Big Sisters to mentor local children. I am happy to point out that these are only a few of many more services and activities that our students are involved in, but limited space keeps me from acknowledging them all.

More good news: The networking event hosted by the Cleveland-Marshall Alumni Association in conjunction with the SBA was a huge success. I received praises of feedback from across the whole spectrum of attendees. Students were impressed that our alumni were open, friendly, and caring enough to spend their Friday evening mingling and making contacts with them. The alumni were impressed with the students' cordial and professional demeanor. Myself personally, I was surprised and impressed with these reactions. I sat in a few meetings deliberating whether or not such an event would be a success judged by its attendance. Well, not only was it a huge success, but everyone is anticipating the next one.

Now the best news of all: The 2009 Barrister's Ball is fast approaching. The Barrister's Ball is an annual formal that is a long-standing tradition for law schools, generally. March 7th is right around the corner, and the Marriott at Key Tower is ready for us. Please note that fliers are posted all around the locker area and the ground level student lounge. The cost is nominal compared to the evening in store: Gourmet dinner, open premium bar, and all night dancing for the student price of \$50 per ticket.

To be put into perspective, the same evening will cost \$80 per person on any other Saturday of the year. I encourage ALL students, day and evening alike, to hurry up and buy their tickets before they are sold out.

Tickets can be purchased in the ground level student lounge daily between noon and 1:00pm and also between 5:00 and 6:00 pm. Accepted methods of payment are cash or check. I welcome all e-mails with any questions or concerns, regarding anything. elias.hazkial@law.csuohio.edu



A participant poses during the scavenger hunt portion of a recent Big Brothers, Big Sisters event at C-M. The organization coordinated with C-M to put on the program as a way to reward top students of inner-city schools. Photo by Regina Fisher

Student Perspective: Obama gambles by closing Guantanamo

By Mike Borowski

STAFF WRITER



Shortly after taking office, in a move catering to his far-left supporters, President Barack Obama began his dismantling of the Bush

administration's anti-terror apparatus put into place after September 11, 2001. The executive orders called for the closure of the military prison at Guantanamo Bay within a year, ordered that the army field manual be used to govern future interrogations, and called for the creation of a task force to make recommendations on the transfer of prisoners and future interrogation policy.

Just hours after this announcement U.S. counter-terrorism officials confirmed that released Guantanamo detainee Abu Sufyan al-Azdi al-Shahri, who had resumed terrorist activities upon his release in 2007, was elevated to the senior ranks of Al-Qaeda in Yemen.

Al-Shahri joins a group of 61 other former Guantanamo detainees that include men like Abdallah Ali al-Ajmi, who after being released from Guantanamo in 2005 and sent back to his home country of Kuwait, have rejoined the battlefield. Last April, al-Ajmi blew himself up in Mosul, Iraq killing 12 people in the blast. According to the Department of Defense 11% of all released Guantanamo detainees return to the battlefield.

In spite of this information it only took the President a few days to take a strategy that has kept the United States safe for almost 8 years from terrorist attack and turn it on its head.

In his inaugural address President Obama said that, "As for our common defense, we reject as false, the choice between our safety and our ideals." Perhaps the President should take a lesson from one of his role models, Abraham Lincoln, who, during the Civil War, suspended habeas corpus because he wanted the Union to win the conflict. He suspended our ideals in order to win.

The closing of Guantanamo Bay was a nice campaign promise and it did what it was meant to do by rallying the base for Obama, but now the fact that the new administration has not considered all the consequences has become clear. They have no idea what they are going to do with the 245 enemy combatants. They have no idea how to try them. They have no idea what kind of rights to give them. The Obama administration just appears to be playing it fast and loose, and in a time of

Barrister's...

-continued from page 1

a serial killer? (Facebook campaigns should be popping up any minute now).

Tickets are currently on sale in the cafeteria area for \$50 per ticket for students and their guests, and \$80 per ticket for faculty and alumni. Realizing that law students are not known for having extra cash lying around, SBA is subsidizing a portion of the student tickets. It is requested that tickets be purchased sooner rather than later so they may get an accurate guest count. They will be available for sale during the month of February.

war this strategy is absolutely unacceptable.

Our enemies do not come from one specific state or government. Guantanamo Bay is the most effective tactic that has been used to give the U.S. an advantage in the war on terror. In a war, tempo is everything. The U.S. must remain aggressive and on the offensive. You do not let the enemy dictate the tempo. You do not take a tactic that is working and just stop using it.

The far-left will have you believe that the aggressive and appropriate interrogation of the detainees used at Guantanamo Bay is tantamount to torture. They called for the use of the army field manual during interrogations which treats the detainees with kinder treatment than is given to common criminals in the U.S. Well, it appears President Obama answered their call. Under the Obama administration's new orders, the current interrogation technique is about as effective as saying, "Pretty please, can you tell us what your next target is going to be?"

Just because the far-left says aggressive interrogation is torture, this does not make it so. Legally, the definition of torture is one that is widely debated. Since the captured terror suspects wore no uniforms, they are not legally entitled to the Geneva Convention protections anyways. The use of the army field manual during interrogations will have real lasting effects on the security of the U.S. There is a reason we have not suffered another terrorism attack since September 11, 2001 and that is because of the information secured during those interrogations and the policies put in place by the Bush Administration.

The war on terror is far from over and President Obama is taking a big gamble with American lives by dismantling the Bush administration's anti-terror apparatus.

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Thursday,
February 19th

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Happy Valentine's Day 2009!

Missives from C-M students, faculty, and staff.

To the Billy with the same boots -
You are my favorite miller, jibbler, and jabbler. Please be my valentine. I swear to you. Point it out and shut it down.

Essentially and legitimately,
Jibbs.

To: Tara
Happy Valentine's Day!

You're a dirty little vixen.
I love your pink shoes and your sexy dance moves.
I think you're super smart; you're my sweet little lovetart!

Love: Your law school twin

happy valentine's day to brando and swickster, the best moot court partners ever! thanks for putting up with my craziness, snoring, dancing and stinky feet! bobble & andrew- prepare yourselves!
- Allison

I would like to wish a Happy Valentine's Day to all my "Frat-Pack" friends in the upper left corner of the class (you know who you are)!!

Love Always,
E

Dear students,
Please remember this:
"What the world really needs is more love and less paper work." ~Pearl Bailey

Happy Valentine's Day!

Yours truly,
Inga Laurent,
Your Manager of Student Affairs

TO THE ENTIRE STUDENT BODY:

You give me good reason to get up in the morning.
You make the time flow swiftly throughout the day.
And when I lay my head down and wonder just what I did to feel so spent at day's end, to whom I gave a full day's measure and from whom I received a hundred times more, ...You're the one.

HAPPY VALENTINE'S DAY TO YOU ALL
From Israel Payton

eric becker, you are sooooo dreamy
from Darren Dowd

Dear Uncle Lu, The Wasko, and Janey:

This V Day, I want you to know how much I appreciate the memories we have made together: Janey, next time run Lindsay's garbage disposal. The Wasko, enough of the premature passout already!) Uncle Lu, next time forget the mile long hike and cuddle up with Glen instead.

Love you guys!!!!
April

Brett, We can't wait to take you to see "Elmo grows up" in April.
Happy Valentine's Day.

Love,
your two moms M&B

Judge Glassman, Please Deny the City's Motion for Summary Judgment.
Happy Valentine's Day!
Cindy Trippenfal.

happy valentine's day to elias el presidente hazkial. thank you for everything you do! and to my prom committee for helping me throw the best prom!
- Allison

Dear Anthony Rich, I don't want to make things weird, because we live with each other, but I can't wait to bunk with you on SB2K9. Please be my Valentine,
Sean Burke

KB, my love for you is containerized

happy valentine's day to courtface and shaleela, my bests, what would I do without you?!?!?!
- Allison

MB, the first time we met 1,000 yards from that school, I knew this would last.
--KK

Ashleigh, we are so alike and bad to the bone!!!
Love you always and Happy Valentine's Day!
Alli

Ashley Koogler -

You're a 10 in my book, even though you smell like whoppers and you walk into doors.
Happy Valentines Day!

Love, Brittany

Mike-
Every day I see you, my heart grows even fonder. You're amazing, and I thank God every day for meeting you. Baby, you're my everything, and I can't wait to see where this crazy life takes us.
PS: I still have your scarf!
XoXo,
Marcell <3

To My Valentine Mary, thanks for a great year!
From Byron

Happy Valentine's Day Neil! You are the best Uncle ever!!!
Love,
Alli and the kiddos

As Bruce said:
"I saw you last time, out on the edge of town; I want to read your mind and know just what I've got in this new thing I've found. So tell me what I see, when I look in your eyes. Is that you, baby; or just a brilliant disguise?"

Jabbs,
Friendship cancelled. Fine.

Happy Valentine's Day from the Commonwealth of Ravisio!
<3 Jazz Hands

Dear Michelle, Paul, and Rick:

I am but a pile of articles without you.

Love,
The Gavel

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