



Political Broadside: Debating the card-check bill.

George Sakellakis and Kevin Kovach trade barbs when debating the benefit of a new union-centric bill.

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Dicta from the Eighth District



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Anonymous 1L is back!

Your favorite, unknown 1L explores the feelings of returning for a second semester at C-M.



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THE GAVEL

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STUDENT NEWSPAPER AT CLEVELAND-MARSHALL COLLEGE OF LAW

Political forces focus on Medical Mart

By Joe Fell
STAFF WRITER

Whether you learned about it from your great-grandfather's stories about his job at family gatherings or from first-hand observations during drives around the city, Cleveland's industrial past is as much a part of the city's culture as the Cuyahoga River or rock and roll.

You can see it in the workmanlike, smash-mouth nature of the Browns' offense, Steelyard Commons, the presence and power of unions, or the giant factories of industrial giants such as LTV Steel.

Now, due to globalization and a variety of other factors, many of these empty factories stand abandoned and silent, serving as giant, empty reminders of Cleveland's glorious industrial history. However, despite what the naysayers may believe, Cleveland is a city with a bright future and a vast, untapped potential of talent, ambition, and knowledge.

One area in which Cleveland has the potential to be a world leader is health care. Within a one mile span on Cleveland's historic and recently refurbished Euclid Avenue lie two world-class health care institutions—The Cleveland Clinic and University Hospitals Case Medical Center.

According to U.S. News and World Report, both of these powerhouse organizations rank in the top 10 of America's Best Hospitals for various medical specialty areas. Specifically, University Hospitals ranks #5 for General Pediatrics and Cleveland Clinic ranks #1 for Heart and Heart Surgery.

In addition, there are three medical schools, several nursing schools, and a number of companies that deal with health care in Northeast Ohio as well.

One recently proposed development that aspires to take advantage of Cleveland's positioning in the health care market is The Cleveland Medical Mart. Similar to Chicago's famous Merchandise Mart, The Cleveland Medical Mart is a facility that will feature permanent, fixed showrooms for medical retailers as well as space for trade shows and medical conventions.

As described on the project's official website, The Cleveland Medical Mart will feature a "merchandise mart of approximately 100,000 square feet to house permanent showrooms, a trade show facility of about 300,000 square feet to house temporary exhibitors, and a conference center

See **Medical Mart**, page 2



Photo by Frederic Aurelien

Maurice Perdreau rejoices at Barrister's Ball, proudly hoisting his award: "Most likely to keep his J.D. on a shelf and become a movie star." In the background, revelers enjoy the most successful Ball in recent C-M history. This year's annual dinner called on attendees to dress in their best black and white, formal attire.

Barrister's Ball brings out the stars

By Tara Chandler
STAFF WRITER

As everyone now knows, Barrister's Ball was a huge success. This year it was held downtown at the Marriott at Key Tower. There was record attendance, with every seat in the formal ballroom taken. Many Professors and alumni were also there.

Allison Taller and the SBA Officers dressed up the event with a red carpet entrance to the ballroom and a Hollywood Boulevard walk of fame leading attendees to the main reception area where they were greeted with a favorite, the cocktail hour.

Dinner was served at 7:30 in the main ballroom, followed by one of the highlights of the event – the awards ceremony. This year attendees were allowed to vote for some interesting categories when purchasing their tickets.

Among the winners were Jay Paskan for "most likely to have their life made into an autobiography"; Kyle Lennen was awarded the "most likely to defend a serial

killer" (yes, though some thought it was to "become," it was in fact to defend); and Ashleigh Elcesser won for "most likely to be on a reality tv show" – among others. There were also some more, shall we say, serious awards, with The Gavel's own Paul Deegan receiving a SBA Student Leadership Award, which was also awarded to Carrie Lewine and Kevin Kovach.

The staff member of the year award went to Jessica Mathewson, while Professor O'Neill won the Professor of the year award.

Allison Taller and Dean Mearns also each gave a speech, with Dean Mearns offering a helpful tip to the students in attendance: no homework until Monday.

Following dinner, the bars were reopened in the ballroom and everyone took to the floor for the first dance, set to Old Hollywood classical theme music.

Everyone seemed to enjoy the theme and formality of this black tie law prom. So much so that dancing continued well into the night, with the event not ending until around midnight.

PAGE 7: Photos from this year's event

Ohio legislature moves on land bank bill

By Kevin Kovach
STAFF WRITER

While Congressional Democrats and Republicans bicker in Washington, D.C., their counterparts in Columbus have united to attack the foreclosure crisis head-on. In December, every local state senator and representative voted for Senate Bill 353, the Cuyahoga Land Bank Bill. The legislation passed the House and Senate by a combined 122-6 vote. Gov. Ted Strickland signed the bill into law on Friday, February 20, in a ceremony at the Levin College of Urban Affairs. It takes effect April 7.

Former Sen. Bob Spada (R-North Royalton), now a member of the State Employment Relations Board, introduced the bill, which he modeled after a similar initiative in Genesee County, Michigan. Flint, the Genesee County seat, has struggled since General Motors ceased most operations there 20 years ago. But according to a Michigan State University study, Genesee County's land bank has helped increase property values by \$112 million since its inception.

The legislation authorizes Cuyahoga County to create a nonprofit county land reutilization corporation (CLRC). A CLRC can hire an executive director, and it requires a board of directors consisting of the county treasurer, two county commissioners, and two other members of the office holders' choosing.

The bill enables the county, through the CLRC, to assume ownership of real estate parcels that foreclose because of delinquent property taxes. Ohio already has a weaker land bank statute, Ohio Revised Code Chapter 5722. First passed in 1976, the statute permits a political subdivision like a county or municipality to take ownership of a parcel after it has foreclosed for delinquent property taxes and twice gone unclaimed at Sheriff's Sale. Until well into the foreclosure crisis, few properties passed through Sheriff's Sale twice. Those who purchased foreclosed parcels often failed to maintain them. This drove down surrounding property values and exacerbated decay.

Columbus, Cleveland, and Franklin County each operate land banks under the old statute. Columbus utilizes a "side-lot program," through which it sells parcels to owner-occupants who own property near the land banked parcels, contingent upon a promise to keep the parcels in good condi-

See **Land Bank**, page 3

New faculty and staff improves C-M

By Geoffrey Mearns

My most important responsibility as Dean is to help recruit outstanding people: bright, promising students; committed teachers and accomplished scholars; and dedicated staff. In this column, I would like to tell you a bit about our newest faculty – and two who will join us next year.



Carolyn Broering-Jacobs is the new Director of the Legal Writing, Research and Advocacy Program.

The Dean's Column

She taught in the law school's legal writing research and advocacy program from 2000 until 2005 and re-joined us in August 2008.

Professor Broering-Jacobs's undergraduate degree is from Notre Dame. Her law degree, *summa cum laude*, is from Ohio State. She was Executive Editor of the OHIO STATE LAW JOURNAL. Following her law school graduation, she clerked for the Honorable Sam H. Bell of the United States District Court for the Northern District of Ohio. From 1996 to 2000, she was a litigation associate in the Cleveland office of Baker & Hostetler.

In addition to her administrative responsibilities, she teaches several courses in the legal writing curriculum.

Matthew W. Green Jr. is a new Assistant Professor of Law. His undergraduate degree is from the University of Maryland. His law degree, *magna cum laude*, is from the University of Baltimore. His LLM is from Columbia University, where he was a Harlan Fiske Stone Scholar. At Cleveland-Marshall, he teaches contracts, employment discrimination and a civil liberties seminar.

In law school, Professor Green was an Associate Managing Editor of the Law Review. Following graduation, he clerked for two federal judges: the Honorable Deborah K. Chasanow of the United States District Court for the District of Maryland and the Honorable Eric L. Clay of the U.S. Court of Appeals for the Sixth Circuit. He joined our law school faculty after practicing law for several years.

Browne C. Lewis is also a new Assistant Professor of Law. Her undergraduate degree is from Grambling. Her MPA and law degrees are from the University of Minnesota. Her LLM is from the University of Houston. She teaches torts,

estates and trusts, property, real estate transactions, and environmental justice.

Following graduation from law school, she served as a judicial clerk for the Chief Judge of the Minnesota Court of Appeals. She then practiced in the areas of public interest environmental law, elder law, and family law, spending a substantial portion of her career as a legal services attorney advocating for the rights of low-income persons.

Kristina L. Niedringhaus is the new Director of the Law Library and an Associate Professor of Law. Her undergraduate degree, with honors, is from Washington University, her law degree is from the University of North Carolina at Chapel Hill, and her MA in Information Science and Learning Technologies is from the University of Missouri-Columbia.

Before joining our law school, Professor Niedringhaus was Associate Dean of Information Resources and Technology and an Associate Professor of Law at the Phoenix School of Law.

I am delighted that these four new professors and administrators have joined our faculty. And next year, two additional professors will join us.

In August, **Josephine S. Noble** will become the newest member of our Legal Writing, Research and Advocacy Program. Her undergraduate degree is from Harvard University, and her law degree is from the University of Buffalo.

During law school, she was Publications Editor of the BUFFALO LAW REVIEW. As a member of the Buffalo Moot Court Board, she competed nationally and was the recipient of the Marie Nesbitt Promise Prize for Academic Achievement and Professional Promise. Following law school, she clerked for the Honorable H. Kenneth Schroeder Jr. of the United States District Court of the Western District of New York and then joined the Cleveland office of Jones Day.

Jonathan Witmer-Rich will also join us in August. He is a graduate of Goshen College and a *magna cum laude* graduate of the University of Michigan Law School, where he was an Associate Editor of the MICHIGAN LAW REVIEW. Professor Witmer-Rich clerked for the Honorable M. Blane Michael on the United States Court of Appeals for the Fourth Circuit and for the Honorable Joseph P. Goodwin of the United States District Court for the Southern District of West Virginia.



The C-M Trial team poses after a trip to the statewide trial competition, held on February 27th. From left: Scott Friedman, Lindsey Wilber, Justin Rudin, Katie Davies, Nick Mamone, Jeremy Samuels, Luisa Taddeo.

Access to technology reshapes study habits

By Karen Mika

LEGAL WRITING PROFESSOR

Do you believe that perpetual access to technology causes law students to learn differently (and perhaps not as well) as previous law students?

I think perpetual access to technology has caused life to change for all of us, and the changes are both good and bad. For instance, I do believe that students doing book research in which he/she had to physically acquire a book from the library, copy each page of a case by hand, or maybe spread out the books on a table before reshelving them later, made for a less hurried (and therefore, more in depth) way of do-

ing legal research and understanding the sources. Hand drafting and the use of typewriters probably made for more careful writing from the onset. (The last thing one wanted to do was to make a mistake and start typing the case over again.)

Speed, cutting and pasting, and the overwhelming amount of information available minute by minute often causes carelessness and skipping some of the necessary steps for truly mastering a skill. By the same token, laws, lawsuits, available research materials, methods of communication, and even causes of actions themselves have expanded exponentially. Thus, there is a need to be able to navigate through this material with haste, produce documents

quickly, and respond to clients/bosses the minute contact is made. With only 24 hours in a day, there is little time to be able to do it all as well as anyone might like.

Most students who have come to my office see that I always work with two computers, and you would find something similar almost any time I am at home. I am a perpetual multi-tasker and am rarely without a computer logged onto the internet. The internet is such a tremendous resource that, while watching a movie, I can look up all of the previous movies that the actors/actresses have been in, figure out the best airfares for my next trip, check the hours of the veterinarian, watch the video about law stu-

Speed, cutting and pasting, and the overwhelming amount of information available minute by minute often causes carelessness and skipping some of the necessary steps for truly mastering a skill.

students multi-tasking in class, and catch all the international news on the msn home page. The trade-off is that if I were to take a quiz on what happened in the movie, I would probably only get a "C."

So really what must be looked at is not whether technology has caused a change (it has) but whether the detriments of the change can be mitigated by common sense. My younger daughter claims that she can do her homework well even when she's logged onto Instant Messenger and text messaging intermittently. Surprise; she can't. No one can, and if I were watching a movie for comprehension, I wouldn't have the computer on either. Law students are as good as or better than previous students, but technology must be utilized beneficially with an understanding that it can result in deficient learning as opposed to enhancing it.

Medical Mart

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of approximately 100,000 square feet."

The idea of building a medically-related facility of this nature has been percolating in the minds of civic planners since the 1980's, but no official action occurred until 2005, when Cuyahoga County Commissioner Tim Hagan had a conversation with Christopher George Kennedy, the President of Merchandise Mart Properties, the company that will manage the proposed facility in Cleveland. (In case you saw his last name and became curious, yes, Christopher George Kennedy is related to "those" Kennedys; he is the nephew of Sen. Ted Kennedy and President John F. Kennedy.)

Unfortunately, progress on the proposed facility has not been as rapid as many Clevelanders have hoped. However, civic leaders such as Cuyahoga County Commissioners Peter Lawson Jones continue to insist that the facility will still be built, and other leaders, such as Mayor Frank Jackson and Cleveland City Councilman Michael Polensek, have been visibly encouraging all parties involved to finalize the deal before another city receives this project.

Cuyahoga County's voters have done their part, though, approving an increase in the sales tax in 2007 that has raised approximately \$60 million for the project.

However, questions still remain as to who will bear the costs of this project—Merchandise Mart Properties or local government. Another area of controversy is the site on which the Medical Mart will be built; the Cuyahoga County Commissioners would like the facility to be built at the site of the current Cleveland Convention Center, while Forest City, another Cleveland-area developer, would like it built behind Tower City.

In spite of the discouraging political wrangling, all readers who care about Cleveland's economy and dream of even brighter days for our great city should maintain hope that all parties involved can resolve their differences and move forward with the project. Cuyahoga County officials believe that this project will bring 300,000 visitors to Cleveland each year, inject over \$300 million into Northeast Ohio's economy, and attract a large number of medical trade shows every year.

Needless to say, this project has the potential to bring excitement and revenue to a city ravaged by foreclosures and significant job losses, and it would be a tragedy if political bickering derailed a project that could help our city further establish itself on the global stage as a major player in the medical industry.

An interview with the Eighth District Court of Appeals

By Kevin Kovach & John Stryker
STAFF WRITERS

Eighth District Court of Appeals Judges Melody Stewart and Larry Jones receive visitors to the second floor of the Cuyahoga County Courthouse so infrequently that they might go weeks without seeing anyone in their chambers, other than staff attorneys and law clerks. So when the pair sat down Friday, March 6 for an interview with The Gavel in Judge Stewart's chambers, they rolled out the red carpet. Perhaps the carpet in Judge Stewart's office is always red, but she and Judge Jones addressed a range of topics, from the process of selecting Eight District panels to the current legal job market.

Judge Stewart, a 1988 Cleveland-Marshall alumna, has previously served as an assistant law director for Cleveland and East Cleveland, law professor, and law school administrator. Most recently, she was C-M's Assistant Dean for Admissions. The former Dean said the biggest change she experienced after winning election to the bench in 2006 was a precipitous drop in outside communication.

"As Admissions Dean, I received 40 to 50 phone calls and several emails each day. Here, the phone doesn't ring much."

Judge Jones earned his law degree from Case Western Reserve University in 1978. He served three years as an assistant Cuyahoga County Prosecutor and six years as a Cleveland City Councilman. Judge Jones sat on Cleveland Municipal Court for 21 years, the last 14 as Presiding and Administrative

Judge. He won election to the Court of Appeals in November. In his first few months, Judge Jones has noticed that the Court of Appeals offers a more relaxed and reflective atmosphere than Municipal Court.

"The pace is more laid back and you can have a good dialogue with your colleagues," he said. "You're not confined to your chambers—you can take work home."

Presiding Judge Patricia Blackmon, a 1975 Cleveland-Marshall alumna, joined Judges Stewart and Jones on Ohio's first all-African American Appellate panel, which heard oral arguments in the Moot Court Room February 19. Judge

Stewart said a computer program sets all panels for the twelve Eighth District judges one year in advance. Each week, nine judges sit on panels and three do not. The computer program divides the calendar to seat judges with each colleague and in each Eighth District courtroom for equal amounts of time. Judges Blackmon, Stewart, and Jones sat together for the second time a few weeks ago, when they heard a case postponed from February.

Ohio has just four minority judges on the Court of Appeals, all of them African American. Ninth District Judge Carla Moore is the only minority Court of Appeals Judge outside of Cuyahoga County.

Despite the history-making panel, Judges Stewart and Jones both believe the legal system can have more cultural balance.

"I was very happy and proud to be part of the panel but there is still a long way to go. I'd like to see even more diversity," Jones said.

He noted that very few countywide judges are African American and only one Latino judge sits on the Cuyahoga County Court of Common Pleas. Judge Stewart added that she'd like to see Ohio cross a milestone by electing an African American

to the state Supreme Court.

On the topic of whether law schools do enough to recruit and retain minority students, Judge Jones said, "It comes down to what type of person you recruit. All students have to be able to do the work."

He offered that recruitment should start earlier in high school. Judge Jones said he considers high school mock trials an excellent means of getting students to consider legal careers. He contended, "It's all about exposure and having students become part of the justice system."

Recalling her two unsuccessful campaigns for the court, Judge Stewart said some people argued she should serve as a trial judge before sitting on the Court of Appeals. Judge Stewart countered that there is not necessarily a lineal progression from trial to appellate judge, and that

it would have been "disingenuous" of her to take that route to the Court of Appeals.

"I never had aspirations to be a trial judge. I ran for this court to do this job," she said.

Judge Stewart added that her time in academia helped her prepare for the Court of Appeals, because appellate courts are by nature more academic than trial courts. She said appellate judges have to think and contemplate cases before ruling.

Judge Jones agreed, "In municipal court, you have to make decisions on the spot. You can hear 100 cases in one day. Here, it's a more deliberative process."

Both judges suggested that law students who hope to one day don the black robes pursue a well-rounded approach.

"I like to think a good judge is a well-rounded judge with a lot of life experiences," Judge Jones said.

"No matter how smart you are or how many years of experience you have, there is always something new," Judge Stewart added.

The pair also addressed the difficult job market for graduating law students. Judge Jones suggested a "shotgun" approach.

"Apply everywhere. You don't have to practice law or even enter the legal field. Maybe don't work in law for a few years. A law degree gives you a lot of flexibility."

Judge Stewart observed, "It's not enough now to come out of law school with a law degree—get involved. Make yourself stand out."

"Carve a niche," she recommended. "If you're in the employment law clinic, for instance, max that out. Tailor your resume and cover letter."

"I like to think a good judge is a well-rounded judge with a lot of life experiences."

Judge Larry Jones
Eighth District Court of Appeals

Land bank

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tion. Cleveland also employs a side-lot program and works with community development corporations to reuse other parcels.

Franklin County Treasurer Ed Leonard, a 1990 C-M alumnus, said in a recent telephone interview that while the cities hold parcels, his county prefers to transfer ownership to community improvement groups after just one day in a land bank. "Holding onto parcels can be problematic, because the government then has to maintain the properties," Leonard noted.

However, he explained that because governments can use land banks for wide-ranging purposes, an entity like a city might benefit from holding onto parcels.

"You can target residential properties in a neighborhood to get a critical mass of parcels to get to a developer for a project. You can also use a land bank to target a particularly bad property, like an old factory, to remove an eyesore to create a marketable swath of real estate. It may not be economically feasible for a private company to address environmental issues and the like, so a state, county, or city has an active role to play in economic development," he observed.

Leonard said land banks help slow urban sprawl by promoting redevelopment of existing parcels to leave green spaces. He also asserted land banks impede the spread of crime because local governments' accountability to citizens requires them to be more responsive than the Department of Housing and Urban Development and banks or mortgage companies. Leonard further argued land banks help foster more vibrant inner cities and can thereby improve whole regions.

Urban Development Law Clinic Prof. Kermit Lind pushed for a regional land bank for several years. "Properties

were going through foreclosure two-to-three times in seven-to-eight years and we needed a tool to interdict that," he said in an interview in his Clinic office.

Lind's vision of a more powerful land bank program failed to gain political traction until recently. He recalled that most prior attention focused on expanding Cleveland's existing land bank to encompass more. Lind suggested that legislators waited to authorize a stronger entity until they had proof it could succeed.

"The genesis of the current interest in land banking arose in large part from the success of the Genesee County land bank," he declared.

The diverse crowd at the bill's signing ceremony reflected the legislation's support. Cuyahoga County Commissioner Tim Hagan and Treasurer Jim Rokakis, co-sponsors of the ceremony and both Democrats, joined leaders from various levels of government. Notable among Republicans were Spada and his successor Sen. Tom Patton, Rep. Matt Dolan, and former Rep. Jim Trakas. Democratic attendees included Sen. Nina Turner, Reps. Dale Miller, Tony Yuko, and Tim DeGeeter, and Cleveland City Councilmen Tony Brancatelli and Jay Westbrook. Suburban mayors of both parties also attended, as did Lind and Prof. Alan Weinstein, Director of the Urban Development Law Clinic.

In his remarks, Hagan credited South Euclid Mayor Georgine Welo with motivating the county to act on foreclosures. Hagan then declared, "There is no partisan view when it comes to addressing this type of issue."

Rokakis asserted that the 44105 zip code, which lies mostly in Cleveland's Slavic Village neighborhood and at one time suffered the highest foreclosure rate in the nation, was "the epicenter of the epicenter of the epicenter." Slavic Village Councilman Brancatelli said he wants 44105 to become "the epicenter of recovery."



Photo by Maryann Fremion
Ohio Governor Strickland, flanked by political allies, signs the Cuyahoga Land Bank Bill.

After taking the podium to applause, Strickland paid homage to those whom he said "did the work." Strickland said his role was merely "to voice support for" the bill and "put a pen" to it. He expressed his hope that the legislation will "benefit all of Ohio" and "serve as a model for the nation."

As Treasurer of Ohio's second-largest county, Leonard plans to carefully watch how Cuyahoga County's new regional land bank works in practice. "We'll keep a close eye on how things transpire in Cuyahoga County to see what best practices we can take from Cuyahoga's effort, and translate those into the needs of Franklin County. We look forward to watching the success of Cuyahoga County's leadership role on this project."

Though the legislature did not act until years after Lind and others first began to advocate for the land bank, Leonard indicated a belief that the bill's overwhelming support offers hope that the land bank will work like it did in Genesee County.

"There's always an opportunity, it just takes the right leadership and spirit of cooperation among the leadership and stakeholders; it takes commitment and folks working together," he declared.

Strickland echoed that sentiment when he concluded the bill's signing ceremony by saying, "I believe that by working together, we can accomplish things, and tomorrow will be better and brighter than today."

Business Law Association panel discussion: Working outside the law firm

By Paul Deegan
CO-EDITOR IN CHIEF

The Business Law Association (BLA) invited students to partake in a roundtable discussion on Thursday, February 19, which hosted three individuals who spoke about their successful careers outside of the law firm.

Since "the mission of the BLA is to expose students to the relationship between business and the law, as each one directly impacts the other," BLA wanted to give students hope in a tough economic climate.

BLA President, David Moore stated, "law firms are conducting record layoffs, rescinding offer agreements, and curtailing summer associate programs, and law students everywhere are having a difficult time finding any opportunity. They are now forced to explore all of their options." As a result of this, "BLA wanted to not only expose students to alternative opportunities, but to introduce them to individuals who have done so," Moore said.

The speakers elaborated on what they do with their J.D. outside the realm of practicing in a law firm.

Thomas Fitzpatrick talked about working at the Federal Reserve Bank of Cleveland as a Policy Analyst. He said that he likes the academic aspects of his job and enjoys the "work life" which he thinks is better than at law firms. Fitzpatrick said that his job is different in that it entails about "30-50% reviewing legislation and 50-70% scholarly writing."

He said that he has more choice in



Photo by Paul Deegan
From left: Guest speakers and C-M alum Kate McManus, Counsel for Developers Diversified Realty; and Thomas Fitzpatrick, Policy Analyst at the Federal Reserve Bank of Cleveland; with BLA President David Moore.

the work he does and works under broad parameters but the pay is slightly lower and there is not much demand for policy analysts. However, Fitzpatrick is not worried about layoffs at the "Fed."

Kate McManus detailed her position at Developer's Diversified as a Lease Negotiator and stated the importance of finding where to fit in best. Pamela Johnson also spoke about her position as Counsel for The Sherwin Williams Company. Both talked about finding the right industry and exploring ideas you may not have considered, such as "go green industries."

The three speakers offered attendees interesting perspectives and gave some advice: 1) don't over-specialize 2) "get networking" and 3) use everything you have as a resource. The speakers highlighted the importance of networking as the most important tool to be used for landing a job. "Most people get jobs by knowing someone," Fitzpatrick said.

When asked what BLA plans to do in the near future, Moore said, "we are currently in discussions with an attorney who is counsel for an international manufacturing company to speak in April. Specifically addressing implications of new regulations

on manufacturers as well as discussing aspects of international corporate law."

Moore also noted, "additionally, we are arranging for an attorney who specializes in small business litigation to address antitrust concerns and real estate valuation considerations for small businesses."

The Business Law Association is a relatively new organization at C-M and encourages all students who are interested in business law to get involved with the club.

For more information, contact David at david.l.moore@law.csuohio.edu.

SBA focus turns to graduation challenge

By Elias Hazkial
SBA PRESIDENT

My Fellow Students,

I trust that everyone had an enjoyable spring break – what you put on facebook will verify it (haha). First, I want to applaud Allison Taller and her committee (Courtney Tew, Eric Long, Lindsay Wasko, Luisa Taddeo, Kelly Needham, Beky Petrusis, and Samantha Vajskop) for putting together this year's Barristers' Ball.

I have received many compliments on their behalf, and the repeating theme is that this year's Ball was the best one that Cleveland-Marshall has had in recent memory, and it definitely raised the bar. This year was the first time that the Ball had a theme (Classical Black & White Hollywood), and to my honest surprise it was a blockbuster smash with all of the evening's patrons. Those not dressed in black and white could be counted on one hand. Way to go Allison! And good luck to her successors in topping the 2009 Barristers' Ball.

Second, 2009 Graduation Challenge is under way. Thus far, we have had 17 students contribute nearly \$1000! Please join me in acknowledging their generosity by noticing their names on the Donor's Wall (ground level cafeteria, on the SBA wall). This is about 40% of last year's mark, but far short of my goal of 100 students contributing \$3000.

Graduation Challenge is about stimulating the outgoing class to make financial contributions to the school in order to make it a better place than when we arrived and to promote giving back as alumni. To reflect

this mission, I have selected a poem by Will Allen Dromgoole, called The Bridge Builder:

*An old man, going a lone highway,
Came, at the evening, cold and gray,
To a chasm, vast, and deep, and wide,
Through which was flowing a sullen tide.
The old man crossed in the twilight dim;
The sullen stream had no fear for him;*

*But he turned, when safe on the other side,
And built a bridge to span the tide.
"Old man," said a fellow pilgrim, near,
"You are wasting strength with building here;
Your journey will end with the ending day;
You never again will pass this way;*

*You've crossed the chasm, deep and wide -
Why build you this bridge at the evening tide?"
The builder lifted his old gray head:
"Good friend, in the path I have come,"
he said, "There followeth after me today,*

*A youth, whose feet must pass this way.
This chasm, that has been naught to me,
To that fair-haired youth may a pitfall be.
He, too, must cross in the twilight dim;
Good friend, I am building this bridge for him."*

Our school is in the process of raising funds to build a new state-of-the-art Trial Courtroom which will surely aid in raising C-M's standing in the legal community. I encourage all students, not just graduating students, to please make this campaign a huge success. Please contact myself or my good friend, Lucas Franklin (Editor-in-Chief, Law Review), for further details and instructions

on how to contribute to Graduation Challenge. Together, Lucas and I have made our own little "side challenge." We each agreed to match 10% of the total individual student contributions (capped at \$1000 each).

Third, the SBA will be hosting an unprecedented event (again) on Friday, April 17 at The Barley House (the former Spy Bar) on W.6th. For the low price of \$20, guests will enjoy food and drinks and race wager cards. On that night, there will be a series of broadcasted races of which people will have to submit a race card with their prediction of the winners. For each correct race prediction, a raffle ticket will be awarded, which then can be designated to win specific prizes such as electronics, hotel lodging, or gift certificates to local eateries.

Lastly, elections for next year's SBA Executives and Senators will be held during the second and third weeks of April. Please consider running for an SBA position and having the opportunity to contribute and impact the school on a macro level. I love doing what I do, but it will soon be somebody else's turn. As always, I welcome all comments and concerns, in person or by e-mail.

Very truly yours,
Elias Hazkial.

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The Political Broadside

The Employer Free Choice Act

By George Sakellakis

CONSERVATIVE GAVEL COLUMNIST



Enter the language of the new big government model of the United States, one that has been honing its masterful skills of trickery by converting English into an Orwellian-like Newspeak. It's a regime that uses confusion, empty words, and a hypnotically-installed suspension of disbelief to convince people of things that just shouldn't be convincing. No means "yes;" fascism is dubbed "fairness;" and legislation that removes the rights of workers is called the "Employee Free Choice Act."

The EFCA amends the NLRA in three major ways. First, it provides for stiff penalties for employers who engage in often-hard to define unfair labor practices like

coercion or other interference with the organizing process, or for speaking on certain "taboo" topics, including offering more pay and benefits to avoid unionization. Second, it makes it a lot easier for organizers to corral workers into their unions through the "card check" process. And lastly, it provides for mandatory mediation, followed by interest arbitration, of an initial labor contract if the parties do not reach an agreement within 90 days of negotiating.

The card check process is where the words "free choice" become redefined through a mysterious illusion that David Copperfield himself would envy. Currently, private employees can organize in one of two ways: by having 30% of employees sign an open petition, which is followed by a secret ballot election, or by having more than 50% of employees sign authorization cards; both methods allow the union and the employer to see exactly who is signing. The latter method allows employers to require an NLRB-administered secret ballot vote before the union is certified. Under the EFCA, this option would be stripped away in the name of "free choice," and the union would be certified then and there – with absolutely no way for anyone, including the workers, to ask for an election.

Union leaders claim that workers will still have a right to a secret ballot, but in reality that will never happen; organizers can usually intimidate and coerce their way to a 50% plus-one level of authorization cards. While on the subject of reality, it is important to note that the publicly-viewable petitions and authorization cards are not even close to being demonstrative of employees' true will. Studies by the AFL-CIO itself show that unions win 8 percent of elections when less than 40 percent of workers sign petitions. Most major unions generally plan for a supermajority card collection of over 70-75% of employees just in case there is an election, demonstrating their own knowledge that around 25% of employees who are intimidated enough to sign the publicly viewable cards will speak with a different voice when voting in a fair and private election. A secret vote not only maintains safety and privacy, but more importantly, it makes for results that are true to the workers' actual collective preference. They should not just be preserved – they should be mandated.

After the union is certified, the government would insert itself into the process when employers and employees don't come to an agreement after only 90 days of negotiation of an initial contract. The parties are forced into mediation, and after one more month, an arbitrator from the FMCS comes in and forms his own contract as he chooses, which is binding for two years (with no recourse or judicial review). This process not only embodies a sweeping intervention of big brother and politics into what should be private sector bargaining, but it redefines the terms "contract" and "agreement," as the final product is a government-created deal which simply cannot embody the true intent of the parties.

The labor climate that brought our country to competitive greatness was based on our ability to improvise and adapt. The EFCA tilts the balance of bargaining power squarely in favor of unions, and takes business decisions away from where they should be – in the hands of managers and business owners. I support workers' rights to unionize and collectively bargain with their employers, and I don't dispute that the NLRA could use some polishing. But as a proud union member who has not yet become proficient in Newspeak, I must call the EFCA as I see it – a "thank you" card to union leaders who contributed \$450,000,000 of their members' money during the 2008 campaigns – and I cannot support it.

Liberal rebuttal...

You claim EFCA provides "absolutely no way for anyone, including the workers, to ask for an election." In truth, EFCA merely removes the employer's veto of employees' decision to organize. Under EFCA, employees form a union when a majority chooses one. Yet if just one-third of employees want a secret ballot election, they get one.

This legislation leaves the decision to hold a secret ballot election solely with the workers. Current law provides virtually no recourse when employers veto a union, then use the secret ballot process to fire pro-union workers. The same employers exploit work time to intimidate the rest of employees with mandatory meetings during which they make lies and distortions about unions.

The bill does not force parties into arbitration. Rather, either party may request arbitration after 90 days without a contract. Your insinuation that FMCS arbitration is unfair is ludicrous. Arbitrators from FMCS use industry standards and the employer's financial situation to craft the terms by which the parties abide.

You trumpet the nineteenth century class warfare cry that unions take decisions from the hands of business owners. At least twice since October, financial industry executives receiving bailouts from federal taxpayers have conducted conference calls in which they preached to one another about breaking unions.

Alabama Sen. Richard Shelby, who advocated over \$500 million for anti-union foreign auto manufacturers to open taxpayer-built plants in his state, pushed to refuse assistance for American car companies. His spoken purpose was to break the United Auto Workers. Apparently, workers can finance businesses so long as they have no say in how their money is spent. Our post-World War II economic boom coincided with the strongest period of union membership in American history. Facts are stubborn things.

By Kevin Kovach

LIBERAL GAVEL COLUMNIST



Consider this scenario:

A group of workers contacts a union to request petitions for union certification in their workplace. The union sends an organizer, who collects signed petition cards from more than half of all workers. By signing the petitions in a process called "card check," the employees express their free will to have the union represent them as their sole collective bargaining agent. They now have a certified union, according to the Wagner Act of 1935 and the Employee Free Choice Act (EFCA), a resubmitted bill which already passed the House in 2007, before Republican senators filibustered it because a majority in

their chamber supported the legislation.

The workers who did not sign cards then state they don't want a union. They successfully solicit the signatures of just one-third of employees, as EFCA requires to trigger a secret ballot election on whether remain organized. These union opponents could have forced an election prior to card check had they obtained the same signatures at that time. Workers then vote by secret ballot to decide whether to retain their union. Does this secret ballot election seem like a denial of a secret ballot election? Rabid anti-union forces say it is. Union-busters will do or say anything to deny workers their right to collectively bargain.

The Wagner Act created the National Labor Relations Board to protect the rights of workers to organize. Under both the Wagner Act and EFCA, once a majority of workers sign union petition cards, they have a recognized union. The Taft-Hartley Act of 1947 permits employers to refuse to recognize unions and thereby force NLRB elections. These "elections" are nothing like our elections. We do not give one side all power and permit that side to harass and intimidate its opposition. Yet, current law protects the "right" of employers to threaten and coerce employees to kill organizing efforts.

Eighty-two percent of businesses facing organizing efforts hire union-busting lawyers who make thousands of dollars every week they train employers to harass and threaten their employees. Seventy-eight percent of companies require supervisors to deliver anti-union messages to employees. Private-sector employers fire pro-union employees in one-quarter of organizing campaigns, because current NLRB penalties for such unlawful firings are so weak that businesses treat them as a minor cost. Most workers who try to organize encounter mandatory, one-on-one, anti-union meetings with supervisors. During election campaigns, employers routinely hold compulsory "information sessions" in which they spread disinformation and lies about unions. I've seen anti-union propaganda videos that stop just shy of accusing "the union" of murdering employees' dogs.

In 2005, professors from Rutgers and Wheeling Jesuit universities conducted a telephone survey of 430 randomly-selected employees from workplaces that experienced organizing movements. Some poll participants supported unions and some opposed them. Some of the workplaces held NLRB elections, while others only had card check. The results reveal startling statistics that clarify why business groups and their Republican allies so fear EFCA.

Twenty-two percent of employees reported a "great deal" of supervisor harassment, compared with six percent who recalled union intimidation. Forty-six percent of workers reported management intimidation during NLRB elections, while just fourteen percent encountered union pressure during card check campaigns. Nearly half of all polled recounted anti-union supervisor coercion during NLRB elections, while less than one-quarter of workers reported employer intimidation during card check. Fewer workers felt pressure from union supporters during card check campaigns. Only one of every twenty workers reported that the presence of union organizers made them feel pressured to sign cards. While management maintained neutrality in more than sixty percent of card check campaigns, the same occurred in only one-third of NLRB elections. The results overwhelmingly suggest that businesses favor NLRB elections because the process permits them to intimidate employees out of organizing.

Anti-union forces claim EFCA will damage the economy, even though it improved after Congress passed the Wagner Act in the middle of the Great Depression. Union members earn anywhere from 11-30% more for the same work than their non-union counterparts and drive up wages generally. More money could help pay delinquent mortgages and create more demand for goods and services to encourage employers to stop firing and start hiring employees.

Conservative rebuttal...

Many of the concerns stated above are typical problems that come with the politics of organization campaigns. Employers and unions alike have been known to use various methods to sway the voters and influence the process. But like my liberal counterpart's column, the EFCA is extraordinarily one-sided; it specifically targets and sanctions employers, and does nothing against unions, who have been known to arrive unannounced at employees' homes, threaten them and their families, slash their tires, and call them out for other employees to harass.

Do employers sometimes unfairly influence the organization process with threats, misinformation, and firings? Sure they do, and I agree with my liberal counterpart that sanctions for certain unfair labor practices need to have their teeth sharpened. But zipping employers' lips while giving unions a megaphone is not the answer.

Instead, both sides should be allowed to give liberal amounts of information to employees, with controls in place to keep the communications fair. Both sides should face more robust penalties for well-defined violations, and the violations' burdens of proof should be just.

After a fair informational campaign occurs and employees are ready to make an informed vote, a secret ballot should be mandated (except when the employer acquiesces). The Federal Mediation and Conciliation Service could help mediating at impasses, but should not be free to impose contractual terms for businesses they know nothing about or have political interests in.

I fully support employees' rights to form unions and collectively bargain with their employers, but I will not throw myself behind a scheme that stinks as bad as this one does. Other than a few other minor changes, the basic refinements offered above would save dictionary publishers great stress by keeping the meanings of the words "free" and "choice" as they currently are.

Anonymous 1L: Law school - the second semester

By Anonymous 1L

The following is the fourth article in a five-part series following the experience of an anonymous first year student.

Second semester is at once a relief and cause for anxiety. There are a few marked changes:

1. You know where you stand—and where some classmates stand. The grades were surely a wake up call to some that law school really was that hard and an affirmation to others that it ain't so bad. I'm of the sort, like many people here, that never had bad grades before law school, and so I had never had reason to complain. Although I'm not a superstar, I don't think complaining can get you very far. The best way to show that you're not worth that grade is to do better this semester. All around, everyone can always do better. (But if everyone does better, then I'll stay where I'm at.... Ahhhh!)

There was one complaint, though, that I found very valid: a gripe about one section whose class had only one A, while others had closer to double-digits' worth. I really find it a bit unfair. The fact that everyone goes into the same pool to be ranked speaks

nothing to a person's actual rank. Unless all 150 of us take the same classes with the same professors and the same tests, there really is no accurate method of ranking each other. It's just a law school fiction. Unfortunately, this fiction has an immediate and parallel effect on our job searches. Hey, law school, leave the fiction writing to J.K. Rowling, et. al!

2. It's not about the grades, it's about finding a job (well, which might depend on that grade). For the most part, everyone is very encouraging of each other. I don't sense a competitive spirit. I heard at a job fair in Cleveland, they actually had to close the doors when 7,000 plus applicants arrived. Many of my friends have survived and lost layoffs, both blue collar and white collar. Oh man, it's a great time to be in school. If you can find a job in this market, you're lucky no matter what it is and how much it pays, if it pays.

I know this is a lame sell, but the alumni network really is helpful and encouraging. About a month ago, at the alumni event at Great Lakes, one of the alumni—a sole practitioner—offered me a job on the spot. I never took it. I decided I didn't

have the time to be a part-time law clerk in the capacity in which he was interested.

I have not yet met any 1Ls that are working at a firm this summer, though I'm sure they exist. I think the competition outside of the law school is the most concerning. If the guy from Harvard can't get a job, what about me? Personally, I don't like to subscribe to

Personally, I don't like to subscribe to the idea that prestigious schools make you smart, but it's only reality that C-M students simply have to work harder to stand out if Ivy Leaguers are on the other side of the battle.

the idea that prestigious schools make you smart, but it's only reality that C-M students simply have to work harder to stand out if Ivy Leaguers are on

the other side of the battle. I fortunately have a job for the summer, but sometimes, I think: Forget this, I'm going to go study in (insert tropical country here) this summer.

3. As a result of the job searching, people look nicer occasionally. More people wearing suits. Men shave and wear ties. I can hear an increase in the clickety-clacks of heels.

4. That statue outside of the parking garage on E. 18th is finally finished. Is that an oversized Pacman in a spaceship made of God's broomstick? Oh, modern art. It's probably way over my head.

5. More people ask you what law school

is like and how it was. At home over the break, that question haunts me. Friends ask about it. Prospective law students increase in the spring semester as more people end their final year of college feeling as though they're on a precipice if they don't make a leap to some professional vocation or other prestigious route. Though I had always wanted to go to law school, I do remember that time last year, as an outgoing student, when people just didn't know what they wanted to do and toyed with law school as their alternative. I hope you can agree that your advice would not be to go to law school on a whim. Besides, it's not whimsical at all! Very rigid, that body of law.

The truth is that you really don't know what law school is like until you get there. If I launch into an explanation of the substantive materials and that we have to learn civil procedure at the same time we learn how to legally write, it really doesn't matter, because all our family and friends probably want to know is, "Oh, it's going well." And "I love the law." That would be enough for those who ask.

Sure, I'll answer that way, but what I'm really thinking is, "I survived the first semester. I'm still here." Whether you're hanging on by a thread or being a superstar, if you're reading this, you're still here.

Waxing poetic - an interview with Israel Payton

By Jillian Snyder
STAFF WRITER

Q: Where did you grow up?

I was born and bred right here in the Buckeye State. I am proud to say I hail from the Great City of Cleveland. Born at St. Luke Hospital (which doesn't exist any more). Lived in the projects on East 81st Street (which don't exist anymore). Established my first savings account at Cleveland Trust Bank (which doesn't exist anymore). Traveled for twenty-five cents on CTS or the Cleveland Transit System (which doesn't exist anymore.) Went to St. Agnes Elementary School (which doesn't exist any more).

Went to Edison Junior High (which doesn't exist any more). Went to East High School on 82nd and Decker Avenue (which doesn't exist any more). Went to Cuyahoga Community College when that institution consisted of several buildings dotted about the downtown area that were leased to the school (a collection of buildings that no longer exist). Lived on Cornell Avenue, a part of the Case Western Reserve University campus, in a tidy brownstone (which doesn't exist anymore).

The landmarks of my life dissolve from year to year like cotton candy in my mouth, but something of them remains as memories, taffy stuck in my teeth, a taste that lasts for hours.

Q: Favorite childhood memory?

Memories! Some are fair. Some are foul. But to crown just one? I do remember hot peppers and ice water. Whenever the Payton's and the Jenkins got together, the men and all the male children—my brother, my cousins and I—would gather around the dining room table. A large bowl of peppers—jalapeños, red chilies and the likes—was placed at the center.

Beside the bowl was a large pitcher of ice water and glasses. The men and any boy who dared would casually eat peppers

as if they were popcorn, and they would watch TV or play bid whist or talk sports and other manly topics. The objective was not to see how many peppers you could eat in a sitting, but rather how long you could go before you had to take a drink water. These hots could put hair on your chest and move you to tears, and if you weren't careful, spontaneous combustion could ensue.

A real man could endure a spicy hell with never a thought to the heavenly waters at his elbow. Well, maybe just a touch, wetting one's fingers in the condensation rolling down the side of the glass. Anyway, my memories of those days include the searing of lips and tongues and fingers and any other area of skin exposed to the oils, and if a playful cousin managed to slip one down your shirt, be thankful for your belt.

And if, in a thoughtless moment, you rubbed your eyes, God help you!

Q: Favorite food at Thanksgiving?

A: Dessert, of course. How about a slice of hot sweet potato pie with Aunt Terrie's sugary pecan covering. Or maybe a la mode with Cousin Jessie's homemade ice cream (She made Uncle Frank do the churning) or topped with mounds of whipped cream...and a maraschino cherry on top, of course... Delish!

Q: Your best Halloween costume ever?

I walk into the room dressed in shirt, pants shoes and socks, maybe my flannel over-shirt, too.

Who am I supposed to be? As Wendy Adams would say, "I'm a homicidal maniac. They look just like everybody else."

Q: Do you have any kids?

None that I'm aware of.

Q: Do you have any pets?

None at present. However, at various times in my life I have had dogs and cats. Once, a lady friend gave me a gift of two

kittens, the largest and the runt of the litter. I named them Patience and Fortitude.

Fortitude lived to be 23 years old.

Q: Favorite book?

Atlas Shrugged by Ayn Rand.

Q: Favorite musical artist or band?

Doobie Brothers/Pink Floyd/Stevie Nix and Fleetwood Mac/Annie Lennox and the Eurhythmics/Heart/Peter Gabriel and Genesis/Blue Oyster Cult/

Q: Best concert you've ever been to?

Al Jarreau.

Q: What do you listen to while you drive to school?

90.3 WCPN.

Q: Secret talent?

I can become invisible in a room full of people.

Q: The worst job you ever had?

A temp job, assigned to work for a trucking company that was, at the time, being audited by the government. Tension so thick it would knock you back at the

front door, and not one smiling face in the place.

Q: Favorite place you've ever visited?

Grand Cayman Islands.

Q: Nickname?

None to my face.

Q: Any extra-curricular activities in High School?

Band. Chess Club. Theater. I was the original "geek."

Q: Whom do you admire the most and why?

John Lennon, John F. Kennedy, Martin Luther King Jr., Robert F. Kennedy, Princess Diana Stewart.

They've killed all my heroes. But, as Elton John would say, "Their candle blew out long before the legend ever will..."

Q: Have you had your 15 minutes of fame?

Contrary to the impression I might give herein, I try to keep a low profile and avoid the fame.



Lincoln Day Dinner hosts C-M Republicans

By Maryann Fremion
STAFF WRITER

“Karl Rove.” The name strikes fear and loathing into many, yet others feel a sense of admiration. Nevertheless, Cleveland Republicans welcomed the top advisor to George W. as their guest speaker for the annual Lincoln Day Dinner.

President Lincoln was known for many things, but to the Republican Party he is celebrated as their “first Republican.” Each year around President’s Day, the Republican Party holds its primary annual celebration and fundraising event in honor of the first President to be elected from the Republican Party.

This year, five C-M students were able to attend the February 24th Lincoln Day Dinner hosted by the Cuyahoga County Republican Party. Tickets were made

available at a discounted rate to students as a courtesy from the Cleveland-Marshall Republicans and the Greater Cleveland Young Republican Club.

A reception before the event allowed students to connect with hundreds of at-

tendees from the Cleveland area as well as from around the state. The Grand Ballroom of the Renaissance Hotel seated approximately seven hundred people to hear various speakers including: State Auditor Mary Taylor, Supreme Court Justice Terrence O’Donnell, State Representative Josh Mandel, and of course, Karl Rove.

Karl Rove spoke about the important task ahead for the Republican Party, not just for success in the future

elections but also for strengthening the party’s policies. He also talked about keeping America safe, the economic crisis and how the housing crisis could have been avoided.

Perhaps the most touching moment of the evening was Karl Rove’s story of his experience with an American wife and mother who sacrificed a comfortable life

to relocate and let her husband serve their country in honor of their son who died in combat. Karl Rove also didn’t forget to update the crowd on how “George” was getting along after life in the White House.

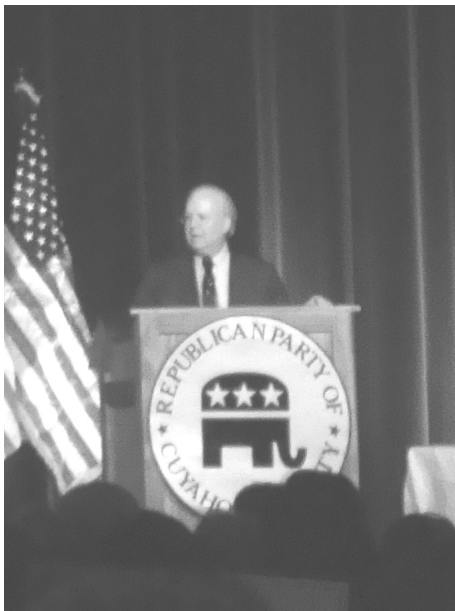


Photo by Paul Deegan

UNIVERSITY ANNOUNCEMENT

STUDENT GOVERNMENT ELECTIONS



Debate -
April 1st, 12 - 3 PM
@ MC Atrium

Election -
April 14th, 2-6:00 pm
April 15th 5-8:30 pm
Law School Atrium



Barrister’s Ball 2009 - Black & White Ball



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