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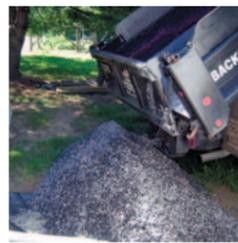


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**READ THE GRAVEL, OUR
ANNUAL SATIRICAL INSERT**

LOOK INSIDE



THE GAVEL

VOLUME 58, ISSUE 6

THE STUDENT NEWSPAPER AT CLEVELAND-MARSHALL COLLEGE OF LAW

APRIL 2010

C|M|Law alumnus Eric Brown takes reigns as new Chief Justice of the Ohio Supreme Court



By Kevin Kovach
EDITOR-IN-CHIEF

Ohio Supreme Court Chief Justice designee Eric Brown believes the diversity of his career experiences will serve him well when he assumes leadership of Ohio's highest court May 3. "My 30-plus years of public service, including nearly 15 years as an elected school board member, and my 13 years in private practice—working with both criminal and civil clients and arguing lots of trials—gives me an understanding of what clients and lawyers want and need from the Court. I ran a small business of my own to get through college and law school. This business and management background will help me with my leadership responsibilities

as Chief Justice," Brown told *The Gavel* in a recent telephone interview.

Gov. Ted Strickland appointed Franklin County Probate Court Judge Brown April 14, following the sudden death of long-time Chief Justice Thomas J. Moyer. Ohio law required Strickland to appoint a justice to complete the remaining eight months of Moyer's final term. Many anticipated that Strickland would choose Brown, a 1975 graduate of Cleveland State University and 1979 graduate of Cleveland-Marshall, for logical reasons. Brown had already campaigned to succeed Moyer, both he and Strickland are Democrats, and all other justices are Republicans.

A Mayfield native, Chief Justice designee Brown began the first of four terms on the Mayfield School Board

while still a C|M|Law student. After passing the bar exam, he worked for five years in a small firm, owned his own firm for six years, and served as an assistant attorney general for 11 years. In private practice, Brown began one of the first elder law practices in Ohio history.

He served five years as Assistant Section Chief in the Attorney General's Consumer Protection Section, including a 1994 stint as Acting Section Chief. In 1996, he began six years as Ohio's Tobacco Litigation Counsel, in which role he led the settlement of the largest litigation in Ohio history. Brown has been married to fellow Cuyahoga County native Marilyn Brown, now a Franklin

SEE **BROWN** PAGE 4

New SBA Execs begin setting 2010-11 agenda in motion

By John Stryker
STAFF WRITER

A new Student Bar Association (SBA) executive board consisting of Will Norman, Kimberly Ballado, Justin Eddy, and Jack Garswood is on board for the 2010-2011 school year. The board brings a collective wealth of life experiences and enthusiasm.

Cleveland-born President-elect Will Norman is a military veteran who was stationed in Baghdad until 2005. Norman then completed his bachelor's degree in business and studied pre-law at Bowling Green State University. This summer, Norman will work at a litigation firm. He and his wife are expecting their first son at any moment.

Norman's friends are familiar with his frank approach, and he has many plans for approaching his new office. "I ran because I felt compelled to serve when called, and I felt

solely to deal with the many mental health issues facing our students. I recently introduced a resolution that aims to ameliorate grade distribution problems. The Senate passed the resolution, and we are considering how to proceed."

An art lover, Vice President of Programming-elect Ballado will balance-out the influence of the other executive board members' analytical natures.

the ability to put art into the hands of the masses while striving to ease and enrich the lives of their consumers." She hopes to pursue a career in public interest or public policy law, where she plans to use the creative problem-solving strategies she learned as an industrial designer to advocate for broad-based solutions to societal inequities.

Regarding her new role, Ballado said, "I joined this ticket because I think we have a united vision for the SBA next year. (Outgoing Vice President for Programming) Luisa (Taddeo) has left some pretty big footsteps for me to follow, but I am excited to pick up where she left off. I hope to increase SBA's presence in the broader Cleveland and legal community. It is important to me that in addition to serving as a social organization, the 2010-2011 SBA



The 2010-11 SBA Executive Board, from left-to-right: Treasurer Justin Eddy, Vice President for Programming Kimberly Ballado, President Will Norman, and Vice President for Budgeting Jack Garswood. Photo courtesy of Will Norman,

that several issues facing students right now deserve my attention. Among the issues I have decided to address are increasing students' roles in certain adjudicative procedures within the school and attempting to secure at least one day per week where a mental health services professional is dedicated to C|M|Law,

The Bainbridge native and graduate of the Cleveland Institute of Art studied painting and developed an interest in industrial design, a field that involves working with the design of products.

Ballado commented, "Industrial design was so captivating to me because beautiful, well-designed products have

bolsters its role as a representative governing body. Together with the rest of the board, we are hoping to get more students involved, more closely address student concerns, and advocate

SEE **SBA** PAGE 3

Trailblazing alumna honored, future alums perform benefit show



ABOVE: Cleveland Mayor Frank Jackson, C|M|Law class of 1983, presents the Key to the City of Cleveland to Judge Jean Murrell Capers, class of 1945. Judge Capers was the honoree at the 2010 BLSA Scholarship and Awards Banquet, held April 9 at the Doubletree Hotel on Lakeside Avenue. See page 4. Photo courtesy of Aja Brooks.

BELOW: Law school band "The Arbitrators" performs a cover of "I Fought the Law" at the Graduation Challenge "Joint Tortfeasors Acting in Concert" variety show April 16. See page 2. Photo by Kevin Kovach.



Graduating students, Gary Williams head for retirement C|M|Law fixture in the homestretch as students complete academic careers



Phyllis Crocker
THE DEAN'S
COLUMN

This is my last column of the year—and March was only my first! It is a busy time of many transitions. Student organizations are holding end-of-the-year banquets and electing officers for the next academic year, students are preparing for exams as classes end, and 3Ls have the added anticipation of graduation and the bar exam. As 3Ls prepare to leave us, we have a new class of 1Ls making their deposits to join us in the fall.

This fall, three of our professors will have new titles that recognize their academic accomplishments: the Cleveland State University Board of Trustees approved the grant of tenure and promotion to Associate Professor for Michael Borden and Browne Lewis and the promotion of Lolita Buckner Inniss to Professor. We congratulate each of them!

I am getting ahead of myself and the remaining part of the school year. We are still in April and we have much going on here of which we should be proud. Of particular note is this year's Graduation Challenge. In 2005, then-Dean Geoffrey Mearns challenged the graduating class to give back to the law school by financially supporting scholarships for succeeding generations of law students. The class of 2006 embraced the challenge to invest in the future of C|M|Law, as has every graduating class since.

Graduation Challenge 2010, spearheaded by Lindsay Wasko and Alana Jochum, has taken the Graduation Challenge to new heights. "Art Party 2010: A Class Action" was a terrific success. It began with a silent auction that showcased the artistic talents of students,

faculty, and the Cleveland community. The variety show that followed—"Joint Tortfeasors Acting in Concert"—was funny and witty, from 1L Matt Hebebrand's spot-on impersonation of Prof. Borden to Alex Stankovic's portrayal of the over-achieving student. The music by the law student band The Arbitrators was exceptionally fine. I am sure that Dean Christopher Lucak will want every prospective student to see the mockumentary "A Hastily Made Prospective Student Tourism Video"!

The evening of "roasting and toasting the things we love about C|M|Law" was hilarious and magnificent. I am thrilled to know that these individuals are the newest crop of soon-to-be lawyers that we are sending out into the world—dedicated, talented, creative, smart, and ready to make their mark on the legal community, as they have on C|M|Law. Thank you to all of the students who worked so hard to organize and put on the show, and thank you to all who attended. Above all else, Graduation Challenge represents a belief in the strength of our school and a commitment to its future.

On a final note, I want to thank Gary Williams for his years of exceptional service to the law school. Dean Williams has been associated with C|M|Law since 1994, as an Adjunct Professor, Assistant Dean for Student Affairs and Recruitment beginning in 2002, and most recently, as the Director of Bar Preparation and Academic Support beginning in 2007. We are indebted to Dean Williams for being an integral part of the Bar Passage Plan, particularly for creating the Ohio Bar Strategies and Tactics course that has been instrumental in ensuring our graduates' success on the bar exam. We will miss him but will not forget him, and we look forward to staying in touch with him as he enjoys his retirement.

To those leaving us, continue to "Learn Law. Live Justice".



The full cast of the "Joint Tortfeasors Acting in Concert" variety show takes a curtain call following the program April 16. Photo by Kevin Kovach.

Arbitrators and tortfeasors act in concert for the benefit of C|M|Law

By Jillian Snyder and Tara Chandler
STAFF WRITERS

Law school band The Arbitrators rocked the April 16 variety show "Joint Tortfeasors Acting in Concert" to benefit Cleveland-Marshall Graduation Challenge. The program also featured skits, dance numbers, a spot-on impression of Prof. Michael Borden as emcee, a law school version of comedian Mike Polk's youtube sensation "Hastily Made Cleveland Tourism Video", and an evening-long auction of artwork by students, faculty, staff, and community members.

The Arbitrators' quartet of Zach Germaniuk and Chris Gray on guitar and vocals, Eric Becker on bass, and Joey Scale on drums rocked the crowd with covers of Outkast's "Hey Ya" and the version of "I Fought the Law" that The Clash popularized in the 1970s. But The Arbitrators were just one of several crowd-pleasing acts during C|M|Law's first gala benefit in 10 years.

To begin the program, amcee Matt Hebebrand took the stage as "Prof. Borden" and introduced law school celebrity jeopardy with Thomas Bruce as host "Prof. Kevin O'Neil", David Sporar as Supreme Court Justice Antonin Scalia, Nick Costaras as "American Idol" finalist Adam Lambert, and skit writer April Stephenson as cable host Nancy Grace. Near the end of the skit "Donald Trump" (Sergey Kats) took over as host.

Program choreographer Anna Woods then performed a solo dance and later assisted with dance numbers in a scene depicting Prof. Stephen Gard and the terrors of the first year of law

school. Pat O'Connor played Prof. Gard and Alex Stankovic starred as the first year "gunner". In a scene set one year after graduation, Jen Noble and Justin Rudin milled around the unemployment office, where the "gunner" sat after cuts at her firm. Dance scenes featured Allie Shapiro, Jane Morrison, Jennifer Soucie, Luisa Taddeo, and Rudin. The show also featured a law school spin on the "Hastily Made Cleveland Tourism Video, directed by Margaret Sweeney, Chris St. Marie, and Jochum, and featuring Laura Kolat as a prospective student.

The Graduation Challenge Committee, led by SBA President Lindsay Wasko and Law Review Editor-in-Chief Alana Jochum, prepared for the showcase for nearly a year. Sarah Kovit collaborated with committee members to blend a musical revue and an art show to produce the first performance to benefit C|M|Law in a decade.

"We became a close group of people," Kovit said. "We worked from the conference room in the student organization office every Wednesday."

Kovit and Stephenson teamed up in January to begin writing process for the skits. "We met every weekend," Kovit said. "I wrote the songs in a day or two and got the ideas from songs on the radio. The movie came later. Once everything was written, the skits were choreographed by Anna Woods."

"Participating in Graduation Challenge has been one of the most rewarding things I have done in law school," Kovit reflected. "It was a ton of work, but when we saw the show come together and the event be a success, we were so proud."

SBA President congratulates and thanks



Lindsay Wasko
SBA
PRESIDENT'S
COLUMN

Classes are over and preparations for finals are about to begin. Just three weeks remain until the members of the graduating class receive their diplomas. It is crazy to think that my three years at Cleveland-Marshall are already over. Now we get the fun task of two-and-a-half months of preparing for the biggest exam of our lives!

Graduation Challenge 2010 was a huge success. The evening started with an art show and silent auction featuring over 100 donations submitted by students, faculty, staff, and local artists. Attendees then proceeded into the auditorium for the theater portion of the show. Prof. Borden, played by Matt Hebebrand, began with the real reason we were all there – to raise money for the "Buy

Borden a Belt Fund"!

The show consisted of two live skits, a video mockumentary, a performance by "The Arbitrators," and two solo performances. Thank you to the faculty, staff, and students for their participation, support, and encouragement. Thanks also to the members of the 2010 Graduation Challenge Committee: Margaret Sweeney, Sarah Kovit, Christopher St. Marie, and Susan Vitaz.

The many hours spent in the conference room paid off – we left our mark at C|M|Law and the Class Action Party 2010 will be an event that will not soon be forgotten! Alana Jochum and I could not have done it without all your help.

The time has come to pass the torch to the newly-elected President and his Executive Board! Elections for the 2010-2011 Executive Board took place during the week of April 12th. Congratulations to the winners: President Will Norman, Vice President of Programming Kimberly Ballado, Vice

President of Budgeting Jack Garswood, and Treasurer Justin Eddy. You are all deserving candidates for the positions and I wish you nothing but the best of luck next year. I have the utmost confidence in all of the newly elective executive officers. Though this year's campaigning was not as fun or as cut-throat as last year, the new Executive Board members have been active and involved in the SBA all year.

Justin deserves further congratulations for earning the 2009-2010 SBA Senator of the Year Award. He went above and beyond what was expected and was always there when needed—from volunteering to sit extra office hours, to setting up the Spring Dodgeball tournament, to all of his help in constructing the new SBA office in the cafeteria. Thank you, Justin, for all your help!

It has been an honor and privilege to serve as President of the student body. It has been a successful and exciting year. I could not have done it without the wonderful members of

my Executive Board. Luisa Taddeo, Samantha Vajskop, Kevin Marchaza, and Nick Costaras—I cannot think of four other people with whom I would have wanted to take this journey. You all did a great job and will be missed! Thank you so much for everything that you have done.

My time spent at C|M|Law has been some of the best of my life. I have formed so many friendships that I have formed that will carry with me for the rest of my life. April, you are my favorite Idahoian and I am going to miss you so much. Lu, I am glad that I am probably never going to get rid of you. Nobeals, I see Chicago as a possibility in the near future. Czarface, Burke, Tony, Ian, Surge, Billy Hoyt, and Scherf, it is nice to know that I have acquired seven more brothers who I know would do anything for me. Juju, Joyful, Smashers, Trout, Allie, Jane, and everyone else – it would not have been the same without you. And on that note, I shall leave it! Congratulations to the Class of 2010!

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the gavel

Lack of summer legal employment is nothing to fret over Consider all experiences career development opportunities

Legal Writing
Professor Karin
Mika

THE LEGAL
WRITING
COLUMN

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. And what happens if I don't find a legal job over the summer?

I think one of the primary mistakes that first-year students make is trying to decide who they're ultimately going to be too early in law school. True, the economy is tough and sometimes jobs are hard to come by, but sometimes you can 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 that you shouldn't keep your eyes open, but I will say that you shouldn't jump too quickly at the first thing that you see because you fear

you won't get anything else. From my perspective, the economy is not so bad that every law clerk job (or even every "good" one) will be taken by the time the end of the school year hits. I advise that you should take your time and see what's out there. If it's not something that you truly want to do, check back again a little later to see if there is something more suitable. Also, put your job searching on hold if and when it impedes your studies.

Remember that a poor decision as to where you will be employed could be as bad as not being employed at all. I will also say that sometimes the benefits of a non-legal situation outweigh the benefits that you will derive from a clerking position. I recall two situations where students followed non-traditional paths and wound up very happy with their decisions. The first individual decided to work with a television station over the summer, and the second individual decided not to work at all but instead to study abroad. Both decisions proved to be excellent decisions in the long run for purposes

of legal employment opportunities. In fact, I recently had a student who contacted me because he had studied abroad after his first year, met the love of his life, moved overseas, and decided to pursue a different career path altogether!

It's always great to get legal experience, but non-traditional experiences can work out well. For those who want to make legal contacts and have some exposure to the legal field, there are many opportunities to intern or even to volunteer. Those experiences can provide valuable contacts and might set up a situation where a student decides what they really want to do in the long run.

My advice is: don't try to carve your destiny in stone too early and don't think that there won't be opportunities for things to fall into place later on if things don't fall into place early. Look at everything you do as a potential opportunity, meet people, and experience a bit of the world before getting too neurotic about what the future will bring!

Ask the Law Librarians: Answers to your questions Information and Advice for researching over the break

By Laura E. Ray

EDUCATIONAL PROGRAMMING LIBRARIAN

Question: *Hey, what's this rumor I'm hearing that we don't have LexisNexis or Westlaw over the summer? I'm doing research for a professor and one of our clinics here. I think I'm pretty decent with book and article research, but not having access to those databases is really going to hurt. What's up with this?*

No worries, and here's the real scoop. Students can register for "summer access" to LexisNexis and Westlaw if they are researching for any one of the following five reasons:

- registered for a Cleveland-Marshall class
- registered for an unpaid internship/externship
- registered for an unpaid clerkship
- working on moot court or a law review/journal article
- working for a C|M|Law professor

LexisNexis also allows summer access for:

- students doing a clerkship for credit
- students doing research associated with a C|M|Law grant/scholarship
- students working on their research skills (ie, for educational, not commercial, purposes)
- graduating students who are studying for the Bar Exam

Westlaw only allows graduating students to register for a limited summer access program – you get five hours in June and five hours in July.

Registering for summer or graduating access is easy. After signing on LexisNexis, click on [Register Now](#) on the *Need to research over the summer?* banner, then follow the prompts and directions. After signing on Westlaw, click on [Go](#) under the *Need your Westlaw password this summer?* clock, then follow the prompts and directions. LexisNexis and Westlaw will open up regular full access for all returning students when the Fall 2010 semester starts.

Finally, LexisNexis also offers

its ASPIRE program that provides free access to many resources to C|M|Law students and recent graduates. You must be engaged in verifiable public interest work. Eligibility is open to 2Ls and 3Ls, as well as graduates and deferred fall associates, pursuing public interest work. For details, and to register for the program, sign on to LexisNexis and click on the *ASPIRE for students in public service box*.

Question: *I know I don't meet the educational-type requirements to have*

note **Loislaw**, a legal research service with federal and state primary resources. Unlike LexisNexis and Westlaw, Loislaw does not reduce access over the summer, nor does it mandate "educational" use by students. From the Law Library Home Page, you can also connect to the *Research Guides* page – with links to over 90 topical and how-to research guides – and the *Contact a Librarian* page detailing research services hours, telephone and email contact, and how to schedule a research consultation. Our library collection is the second largest in the state of Ohio. Our *Scholar* catalog is freely available, and we are very likely have print or electronic copy of what you are seeking.

Second, as a CSU student, via **OhioLINK** (<http://www.ohiolink.edu/>), you have access to all of the major academic library collections in Ohio and over 90 research databases. These databases can be particularly helpful for interdisciplinary research. Third, as a C|M|LAW student, you can become a member of the Ohio State Bar

Association for free. OSBA membership includes access to **Casemaker**, a legal research service with federal and state primary resources, as well as jury instructions and forms for several jurisdictions. Like Loislaw, Casemaker does not mandate "educational" use by students, nor reduce access over the summer. For more information, connect to <http://www.ohioabar.org/Pages/staticPageViewer.aspx?articleid=272>.

Finally, if you don't already have one, get a **Cleveland Public Library** card. It's free, and it allows you to have remote access to numerous research databases, including Gale Legal Forms. CPL is one of the finest public libraries in the country, and it is not part of OhioLINK. You may find copy of needed materials at CPL, rather than waiting for an OhioLINK delivery, and you can use a scaled-down version of Westlaw there. For more information, connect to <http://www.cpl.org/>.

SBA

CONTINUED FROM PAGE 1

for the changes we all want to see."

Next year's Treasurer will be Justin Eddy. A New Concord native, Eddy graduated from Ohio University with a B.A. in Political Science. He is transitioning from a career as a recruiter, and came to C|M|Law to become a litigator in energy, employment law, or health care. This summer, Eddy will split his time between working for a judge in the Justice Center and for a firm in Wickliffe. He and his wife live in Fairview Park.

Eddy commented on his priorities as SBA Treasurer, "I would like to see the accessibility of the SBA continue to grow. I want students to understand that we represent their interests and that they can come to any senator for whatever reason. We will make ourselves known early and often, especially to the incoming 1L class. What made me run for office is my desire to be a leader among the student body and represent C|M|Law."

The Vice President for Budgeting will be John "Jack" Garswood, originally from Milton, Ontario, outside Toronto. Garswood came to the U.S. before high school and attended Siena Heights University in Adrian, Michigan, on a golf scholarship. He, too, is shifting from a second career.

"The summer after my senior year, I turned professional and had some minor success on a mini-tour in Michigan called the Michigan Players Tour," he said.

Garswood indicated that he is not ready to give up on golf just yet. "This summer I will be giving professional golf one last shot on the Great Lakes Tour, based out of Toronto. I also plan on playing some Canadian Tour events and attempt to qualify for a couple of PGA Tour events."

Regarding his ticket, Garswood stated, "I ran to help further the interests of the student body. I think we have a great executive board."



access to LexisNexis and Westlaw this summer. I'm working for a really small firm, and they just don't have much to help with research. I really need this job and want to do well so I have at least one possibility for work after graduating in 2011. Is there anything the Law Library can do to help me?

Again, no worries, really. There's still a lot you have access to, particularly because you are a student at C|M|LAW School and Cleveland State University. First, remember the **Law Library Home Page** (<http://www.law.csuohio.edu/lawlibrary/>) and our collection. From our home page, you can connect to the *Electronic Resources* page, with information on how to access over 70 databases (i.e., access remotely, on the CSU campus, or in the Law Library Computer Lab). There are tons of primary and secondary database resources for your use here any time of the year. In particular,

BLSA Banquet honors Judge Capers for 65 years of service

By Jethro Dely
CONTRIBUTOR

The Black Law Students Association honored Judge Jean Murrell Capers, our 97-year old alumna, and recognized graduating BLSA students, at the 2010 BLSA Scholarship and Awards Banquet on April 9 at the Doubletree Hotel on Lakeside Avenue. Judge Capers, a 1945 graduate, received recognition for a trailblazing career in the legal and broader community. The honoree was the first woman of color elected to Cleveland City Council, won later election to Cleveland Municipal Court, and also served as an assistant police prosecutor and assistant Ohio attorney general.

Judge Capers received numerous awards and proclamations from dignitaries including Gov. Ted Strickland, Sen. Sherrod Brown, the judges of Cleveland Municipal Court, and State Sen. Nina Turner, as well as from the National Chapter of Delta Sigma Theta Sorority, Inc. But the highlight of the evening came when Cleveland Mayor Frank Jackson presented Judge Capers with the Key to the City of Cleveland, to thunderous applause. Mayor Jackson called Capers a pivotal and driving force behind his election.

Both the Cleveland Chapter of the National Association for the Advancement of Colored People and BLSA presented Judge Capers with engravings, while Sen. Turner called her “a force of nature” who “blazed a trail in which greatness was personified. Judge Capers lit up when BLSA, aware of the honoree’s fondness for fashionable headdress, gave her a handmade hat. Aja Brooks, BLSA president, joked, “I liked that hat so much I thought about keeping it.”

The banquet hosts also took time to honor their 2010 graduates, who aspire to blaze trails of their own. Emcee Arthur Worley, a well-known figure within the C|M|Law community, recognized each graduate and presented them with awards. Worley brought levity to the occasion, capturing each graduate in a way a written biography could not.

Memorable moments occurred when Worley brought the audience to laughter by mentioning Christopher Baxter’s uncanny resemblance to Tiger Woods, while complaining that Teirra Ndegwa’s accomplishments took up so much of the page in the banquet booklet that it left little space for his own. Throughout the evening, Worley had a story or event that captured his time with the likes of BLSA graduates Brooks, Hellen Churu, Joanna Lopez, Drew Odum, Latina Bailey, and Troy Ezell.

BROWN

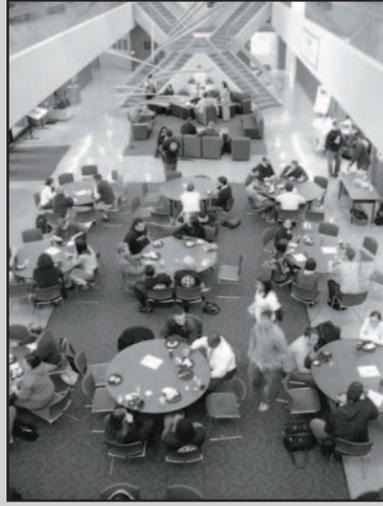
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County Commissioner, for 36 years.

The Chief Justice designee counts *Gavel* adviser Prof. Thomas Buckley and Prof. David Forte among his favorite C|M|Law professors. Prof. Buckley taught Brown commercial law and Prof. Forte worked with Brown during his Mayfield School Board days.

“We had an issue where an elementary school kid wanted to sing a very religious song at a school concert, and his mother was a lawyer. Prof. Forte worked with the school board to develop a new

Allies host second-annual “Spring Fling” to honor other student organizations



AWARD	STUDENT ORGANIZATION
Most Community Involvement outside of Cleveland State University	Student Public Interest Law Organization (SPILO)
Comeback Kids (Most Rejuvenated Group)	American Constitution Society for Law and Policy (ACS)
Best Event	Allies LGBT Symposium
Best New Group	Global Business Law Review
Most Embodying of C M Law spirit	Graduation Challenge 2010
Most Active	Black Law Students Association (BLSA)
Most Generous	Student Bar Association (SBA)
Group That Most Contributes to Academic Achievement on Campus	Cleveland State Law Review

The C|M|Law Allies hosted its second-annual “Spring Fling” picnic and awards ceremony April 13, to honor other student organizations for the work they have done during the 2009-10 academic year. Students voted by email to choose the winners of the categories that Allies members established during their final meeting of the year. *Chart and photos by Maryann Fremion.*

Federalist Society concludes busy spring, including collaboration with ACS to discuss Citizens United

By Jason Csehi, STAFF WRITER
AND Stacey Disterhof, CONTRIBUTOR

Cleveland-Marshall’s Federalist Society kept busy this spring. President Karri Peck was so busy, in fact, that when the group sponsored two events on April 22, she could not find time to get home to let her dog out. “I was going to drive home but then I saw that it was 18 after and the (second) event started at six,” Peck said.

The second event was a discussion on the controversial Supreme Court decision in *Citizens United v. Federal Election Commission*, featuring Capital law Prof. Brad Smith and well-known election attorney Don McTigue. Prof. Smith is a former FEC Commissioner and Chairman, while McTigue has represented numerous candidates and political action committees, as well as the Ohio Secretary of State and the Ohio Elections Commission. The American Constitution Society partnered with the Federalist Society to organize and host the event. Preparations began shortly after the Supreme Court ruled in January.

Citizens United centered on a conservative nonprofit organization’s challenge to provisions of the McCain-Feingold Act that prohibited the group from airing anything advocating for the election or defeat of any candidate within 30 days of an election. The Supreme Court decision effectively removed the ban on corporate spending on political speech.

policy to address those types of issues.”

Brown, who last visited his law school alma mater during last year’s commencement, was impressed with C|M|Law’s plans for a high-tech trial room. “I’m a strong proponent of using technology in the courtroom,” he said.

When asked whether the Supreme Court can speed Cuyahoga County’s slow process of creating an online docketing and filing system, Brown signaled a willingness to help.

“The Supreme Court and the

Prof. Smith argued that he had “the easier side” of the debate, because the opinion merely removed the government’s legislative power to decide who can and cannot speak on political issues. McTigue focused his attention on the central question of corporate personhood. He asserted that by allowing corporations the same rights as individual citizens under the Constitution, the Supreme Court makes it possible for individuals to abuse their ability to hide behind the corporate veil to escape personal liability for their actions. Courts in corporate litigation rarely pierce the corporate veil to permit recovery or prosecution against individuals actors.

Pete Zahirsky, ACS Treasurer, thanked Prof. David Forte for his help with the program. “Prof. Forte suggested we contact Prof. Smith to speak, and we owe some of our good attendance to him bringing his Constitutional Law class to the discussion,” Zahirsky said.

Peck also commented on the turnout. “I was very pleased. Events cannot be successful without student support and attendance.”

Earlier on April 22, the Federalist Society hosted a presentation by American University law Prof. David Snyder titled “A Surfer’s Guide to Contracting: Assent in the Era of ‘Browsewrap.’” Prof. Snyder, a former CIM|Law professor, presented research on the types of contracts to which people surfing the web assent with a click of a mouse button.

Chief Justice can help focus attention on the need for better use of technology, the value of technology, and its benefit to lawyers and the public, to make sure the work of the court is accessible and transparent. The Court took good steps forward under Chief Justice Moyer, by placing the docket and briefs online, and broadcasting oral arguments online and on television. As Chief Justice, I can help to marshal resources to courts throughout the state to increase transparency and accessibility.”

On April 7, the Federalist Society hosted nationally-renown civil rights and criminal defense attorney Harvey Silverglate, who was on a book tour promoting his most recent work “Three Felonies a Day: How the Feds Target the Innocent.” Silverglate founded the Foundation for Individual Rights in Education (FIRE) to combat the oppression of civil liberties he believes is occurring in academia. He has litigated numerous cases pertaining to civil liberties.

Explaining the title of his book, Silverglate said, “During the Soviet era, the head of the KGB would tell the premier, ‘Every citizen commits three felonies a day. Tell me who you don’t like, and I will come up with the charges.’”

Silverglate alleged presidential administrations have taken similar actions in recent years, and added that his book highlights several cases in which his clients have been subjected to treatment that mirrors the action taken by the Communist Party in Russia.

On March 24, Brigham Young University Law School Prof. David H. Moore spoke on about the usage of foreign law in deciding cases in the United States. Moore, who teaches on U.S. foreign relations, international law, and international human rights, argued that liberal justices tend to cite foreign law.

“The nature of cases that rely on foreign law concern guns, gay (rights), and affirmative action,” he asserted. Moore added that jurists cite foreign law “to reach a more liberal outcome,” which he claims is a misuse of judicial power. Moore alleged that “the cases cited are necessarily selective as a general practice.” He charged that judges choose only decisions from western European courts while intentionally avoiding other areas.

Moore, who clerked for U.S. Supreme Court Justice Samuel Alito on both the appellate and Supreme Court levels, closed by stressing that foreign law is less controlling than a law review article, and that foreign sources cannot help to interpret the Constitution.

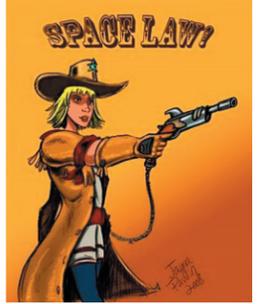
**PROF. GARD BEGINS
NEW CAREER AS
HAIR MODEL**
FASHION, PAGE 16



I'M BETTER THAN YOU

2LE clings to higher grades for ego boost and short-term solace to compensate for lack of self-esteem
STUDENT PROFILE, PAGE 27

**NO ONE REALIZES SPACE
LAW IS A REAL CLASS**
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**WHO'S ONLINE? DAVID WHITEHEAD,
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NBA PLAYOFF TIME

Magical time of year when suburbanites occasionally stop hating on City of Cleveland
SPORTS, PAGE 17

**DEAN CROCKER
DISSOLVES SBA SENATE**
DEVIATIONS, PAGE 12



THE GRAVEL

VOLUME 58, ISSUE 6

THE SATIRICAL NEWSPAPER AT CLEVELAND-MARSHALL COLLEGE OF LAW

APRIL 2010 SPECIAL INSERT

Tea Party Express Mobile Law Clinic claims to have President Obama's Kenyan birth certificate *Tea Party Patriots keep distance from rival faction*

By Futuete Ipsum
SENIOR WRITER

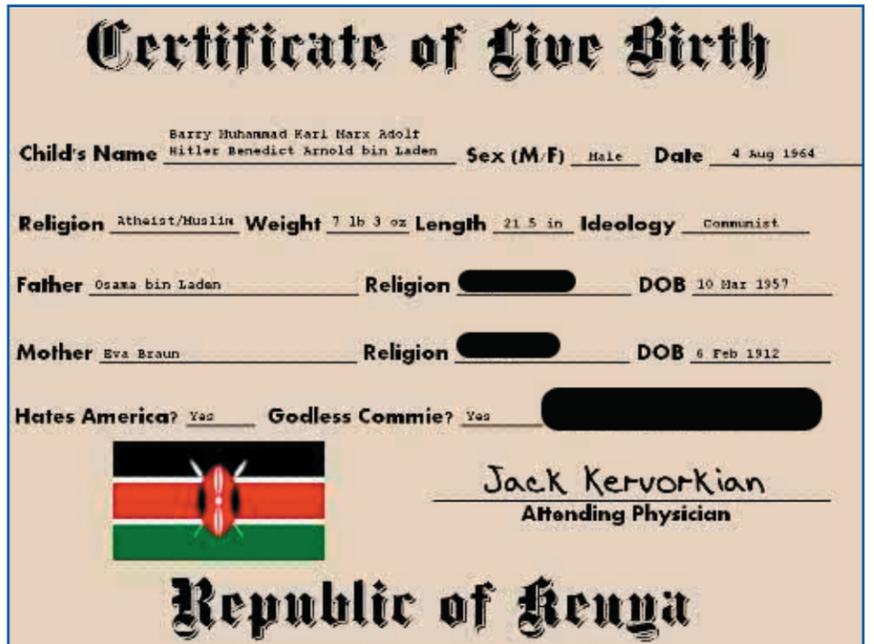
Just one semester after the Cleveland State University Board of Trustees approved funding for the new Cleveland-Marshall Tea Party Express Mobile Law Clinic, student associate Genie S. Akademmik has claimed a breakthrough. "We got our 'smokin(g) gun,'" Akademmik shouted, with a mix of seething anger and ecstatic relief.

The "smoking gun" to which Akademmik refers is not an actual smoking gun. However, fellow associate

Sharon Jones of Springboro frequently plays with firearms in clinic offices aboard a luxury tour bus, while she works on legislation to permit Ohioans to carry loaded guns into college town bars. No, Akademmik's "smoking gun" is what he and Clinic Director and dentist Orly Taitz, J.D., D.D.S., claim is President Barack Obama's Kenyan birth certificate.

Taitz gained notariety in 2008 and 2009 as the titular head of the "birther movement" that sought to discredit President Obama's American citizenship. The California dentist filed

SEE **TEA PARTY** PAGE 2



Tea Party Express Mobile Law Clinic members believe this document is President Barack Obama's real birth certificate. If valid, the document would prove that Obama was born in Kenya, thus rendering him constitutionally ineligible for the presidency, and making Sarah Palin president.

Bathrooms to become "pay-as-you-go" fall semester *TP fees TO students; average cost will be \$2 to poo*



By Ray Sipsa
CRIME SCENE REPORTER

Next fall, in an attempt to generate more revenue during tough economic times, Cleveland-Marshall will institute an eight-percent increase in law school tuition. Both current students and future students are outraged at the proposed tuition increase.

"Times are tough," says newly-appointed Associate Dean of Tuition Make A. Buck, "but students have to look at things from the school's point of view. A tuition increase of eight-percent is only the first of many other charges and fees we are looking into in order to keep this institution fiscally viable."

The law school is basically a business; like any other business, we should be able to profit off of our students' 'business'.

—Tuition Dean Make A. Buck

Perhaps the most controversial fee proposed for the 2010-2011 academic year is that all bathrooms within the law school be converted into "pay-as-you-go" facilities. "Pay-as-you-go bathrooms are very popular in cities like Paris right now," says Buck. "Here at C|M|Law we realize that students who remain in the building all day have to use the restroom at some point during the day. The law school is basically a business; like any other business, we should be able to profit off of our students' 'business'."

Incoming 1L Susan Kittle was shocked when she learned that she would have to pay to use the restrooms in the law school. "I suffer from ulcerative

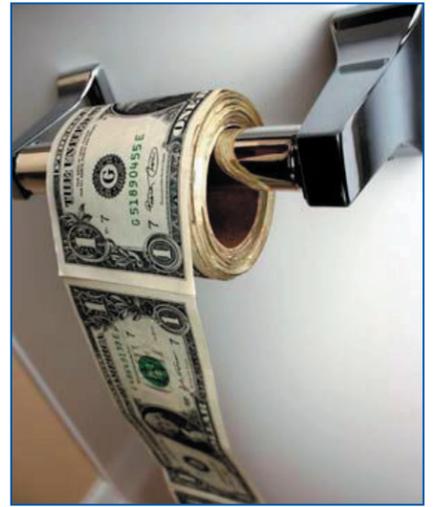
colitis and can go through a roll of toilet paper by myself on a bad day. Had I known about this nonsense, I would have just stayed in the Peace Corps instead of going to law school."

Surly 3L James Norton was much more blunt, "It stinks and I don't like it."

The proposed "pay-as-you-go" fees are still being determined, but according to recent information obtained by *The Gravel*, it appears that

there will most definitely be an entry fee of \$1. Upon entry, rates will be determined based upon the individual student's need. As it stands now, toilet paper will hover around ten cents per a square. "All fees will be, a la carte, as the French like to say," Buck says.

"If our students learn how to successfully deal with this international custom, they will be better prepared to deal with future international clients in the twenty-first century global marketplace. At this time, we think that it is still too early for us to say exactly what the fees will entail, but we do know that the plan does call for an attendant to work in each restroom. The tips that this attendant will receive will be a great source of income for the school. I would consider this to be a great opportunity for C|M|Law alumni. I have spoken with Ms. Lava in the Office of Career Planning and there will be an announcement posted soon on the Symplicity website."



BATHROOM FEES: WHAT YOU'RE SAYING



"I suffer from ulcerative colitis and can go through a roll of toilet paper by myself on a bad day."
—Susan Kittle, Incoming 1L



"It stinks and I don't like it."
—James Norton, Surly 3L

INSIDE THE NUMBERS: TP AND PEE-PEE FEES

How much cash will you drop into the pool with your nuggets?

The average cost of a bodily function will match its number.

• NUMBER 1 WILL COST \$1:
\$1 bathroom entry fee

• NUMBER 2 WILL COST \$2:
10 cents per square of toilet paper x 20 square average=\$2 per defecation

• TIP AFTER YOU RIP:
Don't forget to tip your bathroom attendant, unless you want a reputation as a cheapskate before you enter the practice of law

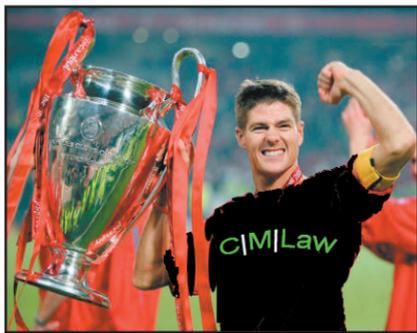
Moot Court hit with state desegregation order

Prof. Gerrard to appeal; African American member will present oral arguments

By Sahr Chasm
MANAGING EDITOR

The Cleveland-Marshall Moot Court program was rocked last week when Cuyahoga County Common Pleas Court Judge May Xitupp issued a state desegregation order against the law school institution. Under Judge Xitupp's decree, Moot Court Board of Governors Chairman F.W. McGillicutty and Adviser Prof. Steven Gerrard will cede their managing discretion to Judge Xitupp, because of a "pattern of past discrimination so severe that one cannot help but make up charges of de facto segregation under no longer controlling U.S. Supreme Court precedent."

Judge Xitupp cited Ohio Revised Code Chapter 4112, thereby proving



Prof. Gerrard in happier times, shown here celebrating after one of his teams won the regional Moot Court competition in some year or another, or something like that. Gerrard and the C|M|Law Moot Court program face court battles over alleged de facto segregation. Gravel file photo.

he knows how to navigate the table of contents on codes.ohio.gov. He pointed to Ohio Supreme Court decisions that hold state courts may consider federal Title VII case law to evaluate alleged violations of Chapter 4112. Judge Xitupp then applied *Milliken v. Bradley* to find a "persistent and consistent pattern of discrimination and abomination that causes consternation and mass loquation in open defiance of the Emancipation Proclamation."

Prof. Gerrard has already filed an appeal with the Eighth District Court of Appeals. Former C|M|Law Assistant Dean for Admissions Melody Stewart withdrew her name from the pool of

"We haven't ruled out dragging BLSA into this... We're Moot Court, dammit."

—F.W. McGillicutty

potential panelists to avoid the appearance of impropriety, leaving the Moot Court program more likely to face Judge Frances Battista, who last year slapped the part-time evening program with a forced busing order. Some court watchers argued that the order defied logic, as most students drive to school, while others take public transportation for free, thanks to the trusty U-Pass. Nevertheless, Judge Battista has yet to lift the order.

Prof. Gerrard, in his Liverpoolian accent, recently discussed his appellate strategy with *The Gravel*.

"Right off the bat, we're going with W.E.B. Dewboisie. Em, he's got his Ohio Legal Intern Certificate, so he can practice under attorney supervision. He's the smartest lad we've got, clearly in the so-called "talented tenth" by intellect. But the ace is that he's African American. How on earth can any three-judge panel, even one that may contain Judge Battista, find a persistent pattern of Moot Court

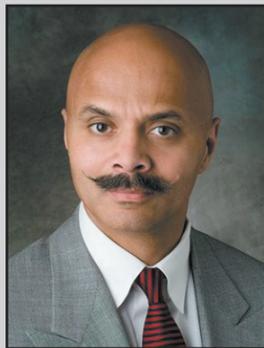
Judge Xitupp (found) a "persistent and consistent pattern of discrimination and abomination that causes consternation and mass loquation in open defiance of the Emancipation Proclamation."

segregation when we trot out a minority student to present our oral arguments?"

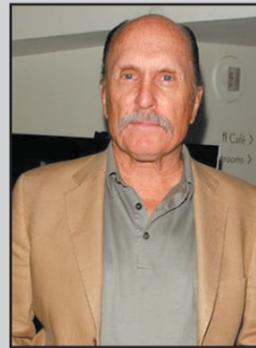
McGillicutty added another possible wrinkle to the gameplan.

"We haven't ruled out dragging BLSA into this. Sure, they had a Palestinian president a few years ago, and never turn away anyone, but they participate in the Frederick Douglass Moot Court Competition. Even though their top team member argued alone, she won National Best Oralists honors. It should be up to us to determine if she's good enough to compete on a top-flight nationals team. We're Moot Court, dammit."

Professors charter mustache association chapter



Adjunct Prof. Peter Kirsanow (left) is already leaving his mark on Cleveland-Marshall. Kirsanow has partnered with long-time Profs. Stephen Lazarus (near right) and Steven Steinglass (far right) to establish a C|M|Law Chapter of the Royal Handlebar Mustache Association. The lip whisker mongering trio received word late last week that the international body approved their charter petition.



TEA PARTY

CONTINUED FROM PAGE 1

frivolous lawsuits in numerous federal district courts, based on inartfully forged documents. On multiple occasions, the wisdom (teeth) remover slandered skeptical federal judges in the press and libelled them in legal briefs submitted in their own courts. Seeking shelter from the limelight as she continues to pursue her unique scholarship, Taitz proposed the Tea Party Express Mobile Law Clinic she now directs.

A look at the "birth certificate" yields disturbing details. Apparently, the name Barack Hussein Obama is mere cover for the actual moniker Barry Muhammad Karl Marx Adolf Hitler Benedict Arnold bin Laden. Kenya evidently requires notation of a newborn's religion on each birth certificate, with the president's listed as a combination of atheism and Islam. Historical records from the fertile crescent are incomplete, but this appears to be the first time in 1,400 years that one person has simultaneously been both a devout Muslim and non-believer.

Further perplexing, Kenya seemingly requires a newborn baby's political ideology. The president's is listed as communist. Somehow, his father is Osama bin Laden, who was just six years old at the moment of conception. More remarkably, mother Eva Braun conceived over 18 years post-mortem. The certificate of live birth also affirmatively states that President Obama "hates America", and is a "godless commie".

The religions of both father and mother, as well as another section, have been redacted. The attending physician is listed as Dr. Jack Kervorkian, perhaps a mistranslation from Kenyan English into Red-Blooded American of "angel of death" Dr. Jack Kevorkian.

Prof. Taitz bristled at questions into the veracity of the document that allegedly proves that President Obama is not an American citizen.

"Have you seen the crap I've gotten away with saying and writing about judges? If you don't shut up, I'll find proof that your real name sounds like Taitz."

Leaders of the C|M|Law Tea Party Patriots, who have been working with the libertarian 1851 Center for Constitutional Law in Columbus, issued a public statement distancing themselves from Prof. Taitz. "As rational libertarians, we believe the 'work' of dental hygienist Orly Taitz and her minions are a distraction from the real issues facing our republic: a lack of guns and gold."



Prof. Orly Taitz, J.D., D.D.S., "birther movement" icon and Director of the Tea Party Express Mobile Law Clinic, conducting her unique brand of legal scholarship. Prof. Taitz, who has filed pathetic forgeries with court pleadings and proudly slandered and libelled numerous federal court judges without repercussion, claims that she and her law clinic student associates have uncovered President Obama's real Kenyan birth certificate. Gravel file photo.

Thirty Years' War reenactment between Catholic Lawyers Guild and Christian Legal Society was a really, really bad idea

By Kyle R. Christian
CITY REPORTER

"The Politician" statute, E. 18th St.

The Cleveland-Marshall Catholic Lawyers Guild and Christian Legal Society recently came together to commemorate the signing of the Joint Declaration on the Doctrine of Justification, a document to which the Roman Catholic Church and many Lutheran groups have agreed. Essentially, the document denotes the common ground that Catholics and Protestants find in ecumenical relations. The believers intended for the event to be a unifying experience to draw closer in faith, after 500 years of division. However, one of the worst decisions in the history of C|M|Law wreaked havoc throughout the Cleveland State University campus, after the two organizations chose to reenact the Thirty Years' War.

The Thirty Years' War was, as its name suggests, a three decade-long bloodbath in which European Catholics and Protestants continuously engaged one another in brutal, unholy slaughter. Each side had the brilliant notion that the Christian God and their savior Jesus Christ would favor whichever side murdered more of the other, even though Jesus said in every published translation of both Catholic and Protestant Gospels, "love one another as I have loved you." Nevertheless, Catholic Gospels also

quote Jesus as saying, "do unto others as you would have them do unto you." Accordingly, Catholic warriors during the Thirty Years' War may have believed they were fulfilling the Golden Rule by butchering fellow Christians, because they wanted to be butchered to pass into eternity.

Regardless of the intellectual capacity of seventeenth century European states, C|M|Law CLG Desiderius Erasmus and CLS President Martin Luther agreed upon the modern version of the really, really bad idea. The leaders selected the small field adjacent to the Business Building as the location, largely because the statue of "The Politician" resembled a Dutch windmill and reminded them of Don Quixote.

To understand what the two leaders may have been thinking requires further historical detail on the Thirty Years' War. The episode was waged between 1618 and 1648. It was a war of religious differences emerging from the Peace of Augsburg during the Protestant Reformation, in which the 225 German states were left to their own devices regarding the religion they would observe. The struggle pitted the Holy Roman Empire and Catholic League countries as belligerents against a plethora of Protestant nations, including the United Kingdom, the German state of Saxony, and Sweden. Denmark, like Italy in both

CONTINUED ON NEXT PAGE

Prof. Sagers returns from year-long undercover "sabbatical" at local high school

By Y.T. Collarpopper
STAFF WRITER

Cleveland-Marshall Prof. Chris Sagers recently finished a year-long undercover narcotics operation at an area high school. Prof. Sagers previously told students and staff that he was taking leave to go on sabbatical.

Prof. Sagers' journey into the seedy world of drugs was, by his account, unexpected. Of all things, it began with an innocent trip to the video store.

"I went (to the video store) to purchase the newest release in a film series of which I am particularly fond," said Sagers, followed by a slow wink, indicating that he was referring to "Twilight".

Switching between active and passive voice like a first semester legal writing student, Prof. Sagers continued. "As I was pulling the film off the shelf, I was suddenly tackled and found myself face-planted onto the floor."

After an unremarkable struggle, a bewildered Prof. Sagers was dragged to his feet by an undercover police officer named Freddie Hayek. Hayek had mistaken Sagers for an infamous middle school boy with a history of pilfering some of the store's more unorthodox pornographic materials located in the very section Sagers was perusing. Why the store

placed teenage girl favorite "Twilight" near illicit materials was unknown at press time, because the store refused comment.

After being taken to downtown Cleveland Heights to rot in a holding cell with the lowest of the low—drivers who race four mph over the posted speed limit—Sagers finally convinced the officer that he was in fact an adult man, rather than a pre-teen boy. Hayek agreed to let him go, but not before requested that the cherubic scholar take on undercover duty.

Prof. Sagers' boyish features would lead most to think him more suited for a paper route than for law enforcement, but Officer Hayek had a special plan for that baby face. "If he could fool me, a 20-year veteran of the force," explained Hayek, "he definitely could fool a bunch of strung-out kids."

Prof. Sagers underwent some deep soul searching. "The guys thought I could go undercover in a high school that was having some serious problems. I mean, I have two young kids. I owe it to them to try and make a difference," sputtered a choked-up and teary-eyed Sagers. "I love them so much," he said, his voice trembling.

So began the banking regulation aficionado's journey into the underbelly of drugs and gangs. He boasted that fitting in with that crowd was easy for him.

"I would go up to these kids and

say, 'Hello, fellow peers. Would you like to smoke drugs and do the marijuana weed pot?' I eased into their posse like an old man into a hot bath," quipped Sagers in disturbing nineteenth century lingo.

When word got out that Sagers was actually a NARC law professor, students didn't seem surprised.

"He was obviously a law professor who looked like a boy," said eleventh-grader Timmy McDonald. "All he ever did was rage against corporate tyranny and drone on about his drug use. I don't like to stereotype, but that's the M.O. of every law professor I've ever met at the racket club."

When told that Sagers taught antitrust law at C|M|Law, ninth-grader Susie Johnson offered her thoughts.

"He clearly loved antitrust. I didn't have the heart to tell him that it's become as relevant as the phlogiston theory of fire. I can't believe antitrust is even taught in law school anymore. That's probably why he's not at Case."

When asked how successful the operation was, Officer Hayek frowned. "Not as successful as we



Gravel file photo.

would have liked. He got in too deep. We had to pull him out early."

Prof. Sagers is set to return to teaching this fall. Until then, he is on health leave to receive treatment for a crippling airplane glue addiction that he developed in the line of duty. Sagers will also appear in the season premiere of A&E's "Intervention". When asked if he thought he was a hero, Professor Sagers furled his brow, pivoted his head slowly, and cast his gaze out into oblivion as if to commune with a deity.

"Indubitably," he whispered before gently blowing soap bubbles out of a plastic pipe. "Indubitably."

CONTINUED FROM PAGE 3

World Wars, changed sides during the war, eventually siding with the Protestants. The French Hugenot minority attempted to help their Protestant allies, but failed to do much, also like the two World Wars. Now, back to the modern really, really bad idea.

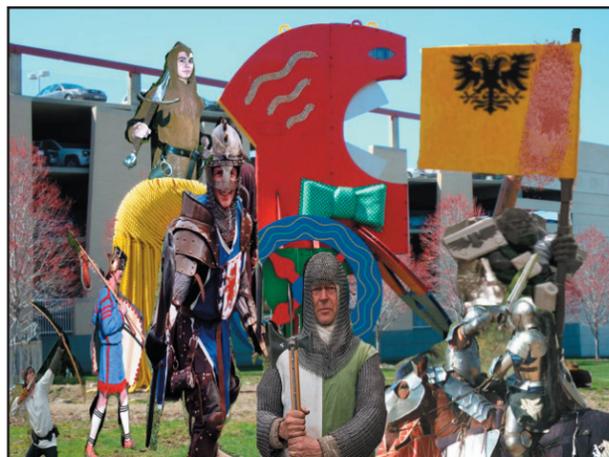
"We thought that his would be a good event to have for Admitted Students Day, you know?" said Erasmus. "We just want to show next year's entering class that there really are opportunities to participate against the forces of heretical evil," he added after kissing a crucifix.

At the beginning of the program, for no apparent reason, CLS Treasurer John Calvin shouted, "He (Jesus) is not there anymore, you know. He is risen indeed!" Fellow CLS members Dietrich Bonhoeffer, William Rehnquist, Ace Frehley, Kirsten Dunst, and David Hassellhoff agreed. Immanuel Kant could not decide whether he concurred, while Johannes Kepler was too busy gazing through his telescope. The Catholics were not amused.

Real trouble brewed when the CLG demanded that the accord between the groups be read in Latin. "We can return to the Latin Rite because, after all, we are the one true faith," whispered Erasmus to CLG Vice President Ignatius Loyola. "The Holy Roman Empire should never have been dismantled, and this is our chance to right an historical wrong!"

Upon hearing this, the CLG stormtroopers emerged from the parking deck with heavy, period-correct armaments (not that cheap imitation stuff imported from China, mind you).

All too weary of Catholic trickery and deceit, Luther had the malice aforethought to prepare CLS members for such an incident. John Hus and Philip Melancthon smashed the windows out of the top floor of the



Some combatants inexplicably pose, while others try to kill each other. A fun time was had by all who survived with nary a wound to either person or car. Photo by Dick Lennon.

business building, and Hus fired his trusty crossbow named "Betsy" at the furthestmost tree, creating a zipline for the 2,000 CLS men-at-arms to enter the field of battle. When Richard Wagner's "Flight of the Valkyries" ended, the men-at-arms listened to Bach and Beethoven selections that they illegally downloaded onto their iPods in the C|M Law Library.

With that, thousands of Christian law students engaged in battle and started to fall as if they were brown leaves blown by the wind. The earth drank much blood, but it didn't dirty the pikes hidden in a top secret underground desert bunker next to Becky's. All the while, law students who practice Judaism, Islam, Buddhism, Hinduism, the Holy Rite of the Flying Spaghetti Monster, other faiths, and no faith at all stood bewildered at the supposedly higher reason of the Christian groups.

Screams of "Burn in Hell, you heretics!" filled the air from both sides

of the battle. At the apex of the melee, Luther regrouped the CLS, declaring there no such thing as divine right, and that Gustavus Adolphus's death moments before had to be avenged.

"Axes grind and maces clash as wounded fighters fall, but our God will deliver our enemies unto us this day!" shouted Luther as he shed his monk attire to reveal heavy armor with the Luther Seal drawn in crayon on the breastplate. He

then charged back into battle, flailing his sword, Papist Reaper, until the blade was covered with the blood of his enemies.

The CLG torched captured CLS banners, which read "Ye are saved by grace alone, through faith alone." Because the banners had been made from curtains stolen from local monasteries and convents, the aroma of incense gave the Catholics stout hearts and their bloodlust reemerged. CLG Secretary Cardinal Richelieu saved fragments for 2011 Easter Mass, citing cuts in the Diocese budget.

The situation worsened when the Cleveland Mounted Police, who had been parading down East 18th Street in celebration of April 19, 1775 battles of Lexington and Concord, intervened in the fray. In the ensuing mayhem, both sides of berzerk Christians felt entrapped by liars in wait, so they began fighting the police, who had only loaded blank rounds into their service revolvers for the parade.

Prior to the start of their really,

really bad idea, the CLG and CLS had agreed to cease hostilities at 3 p.m. to sign the Treaty of Westphalia, the 1648 peace that ended the original really, really bad idea. However, the combatants kept up the bloodbath, so Gov. Ted Strickland called in both the National Guard and the Boy Scouts. Showing that at least one group learns from history, the Guardsmen used rubber bullets to disperse the crowd, while the Scouts used their pocket knives, merit badges, and mess kits to treat the wounded. Peace finally returned to the CSU campus.

In live interview the following afternoon with FOXNews resident lunatic Glenn Beck, Interim Dean Phyllis Crocker commented on the really, really bad idea (the battle, not her interview with Glenn Beck).

"Martial law descended upon Cleveland-Marshall College of Law last night," Crocker said. "There is little doubt that the convictions that will stem from this disaster will provide me with invaluable Criminal Law teaching material for years to come. I suppose every cloud has a silver lining."

Citing the aftermath of the really, really bad idea, Crocker cancelled several other planned reenactments that were even worse ideas than the first. Among others, the Dean axed a Reformation Day Reenactment scheduled for October 31 and a reenactment of the First Crusade. Crocker said she feared that the two even worse ideas would lead to a precipitous decline in law school applicants who practice Islam or have German ancestry. Given the fact that the Christian groups were the only believers in the law school who behaved in such an "unpleasant" manner, Crocker indicated a desire to deliberately swell the ranks of followers of other faiths as soon as possible.

Gravel interview: Luisa Taddeo and Sean Burke share the Canadian way to find a job

By Reggie Dunlop
OTTAWA BUREAU CHIEF

As the end of the year approaches, one thing really looms over our heads: jobs! They are very scarce these days. However, I am here to say you can succeed! This happened to two of our graduating students, Luisa Taddeo and Sean Burke. After attending an international networking event, both soon started doing what they love. I sat down with Luisa and Sean and asked them to tell me about their new positions.

Thanks for meeting with me today. Tell me how you got these wonderful positions.

Luisa: Sure, no problem, eh. Now, um hang on a second now eh, I gotta think where to begin, eh.

Sean: Coo roo coo coo coo...Owww eh!

Luisa: (Slaps him) Shut up Hoser! I'm talking! Okay like, we needed jobs eh, and we just decided that they were out there and we needed to find them eh. So I'm like we gotta be better than everyone else and like, we have to exploit ourselves better than everyone else...eh.

Sean: And so I'm like, what is the most exploitable thing about us, eh? But I couldn't figure it out, eh. But then she did, eh! But then I forget what she said, eh. Hey, what is the

most exploitable thing about us again?

Luisa: We're Canadian, Hoser!

Sean: Oh yeah. Beauty, eh?

Q: So once you decided to "exploit" yourselves, then what did you decide to do?

Luisa: Well, then I was like, lets go to an international law networking event, eh. We're like not from the United States, eh, umm, so we know more about being international than they do, eh. People there love it when Canadians exploit themselves, eh. So we like go and...

Sean: Hey I wanna talk, eh. Okaay, so we go and I decide we need to be really, like Canadian, eh. So I got like, eight half-sacks, two two-fours, some Cheezies, Freezies, and some Poutine, eh.

Luisa: Beauty, eh?

Q: So you go to the event. How did you get your jobs?

Luisa: Well, like once we got there we decided to tell everyone about the law in, like Canada, eh. So, Sean and I decided to tell them how to get free beer, like using the law eh. Everyone in Canada knows eh, that if you find a mouse in your beer, you get a free case. It's in like the Canadian Criminal Code, eh. So, I'm like, if you find six mice in you know, the six beers in your half-sack, you get a free case for each beer, eh.

Sean: That's like...20, no like...124? Hey, anyway you get a lot of free beer, eh.

Q: So you got your jobs how?

Sean: Well, like after we told them how to get free beers eh, they like, wanted

some of ours. I said "hey, no way man, these are my beers eh, these are my Cheezies!" But they like, kept asking. So I was like, ok give me some money eh?

Luisa: Then I was like, holy Geez, eh. We're making money, eh. We should, like do this all the time, eh. Get some half packs, Cheezies and Freezies and sell them, eh, for like double what they cost us, eh!

Sean: So that's, like what were gonna do eh!

Luisa: It's like our dream job, eh!

Sean: Beauty, eh?

Q: So you have no legal jobs after graduation?

Luisa: No, eh. We like tried to get law jobs, from people at the event, eh. But like, there weren't any.

Sean: Yeah, everyone was like us, eh. Unemployed.

Q: So do have anything to say to the other people who are graduating?

Sean: Yeah, like, I have something to say. Coo roo coo coo coo...Owww, stop hitting me, eh!

Luisa: (Hits him again) Shut up hoser! I could crush your skull...like a walnut... but I won't...because...I forget, eh.



LEFT: Students wait to speak to the employer that came to a career fair. Photo by Anita Bath.

C|M|Law rockets to second in law school rankings by admitting classy guy, sans the C and the L

By Learned Hand
MEDIA CONSULTANT

The day U.S. News and World Report releases its Law School Rankings gives law school administrators across America panic attacks. This is the day that determines if all of the new initiatives and programs implemented throughout the the year pay off. It is the day that determines whether some deans keep their jobs. In fact, some astute students even make



Is his right eye lazy, or is it made out of glass, like that one guy in "Last Action Hero"? New Jersey is proof that God has a sense of humor and wants you to know that no matter how bad things may seem, you'll always be better than someone.

their decision about where to attend law school solely based on these rankings.

When this year's rankings were released, many at Cleveland-Marshall expected some rise in the rankings. C|M|Law's bar passage rate remained high and its moot court teams tasted success. The addition of an extra law clinic and several externship programs gave C|M|Law's reputation a boost in community. The average LSAT score and undergraduate GPA had rise, too. However, nobody at C|M|Law expected the school to jump from the third tier to number two in the rankings, behind only Harvard Law School.

What caused this meteoric ascent up the ranking ladder? One person: Vinny Guadagnino. Viewers of MTV's hit show Jersey Shore may know him as the quiet, nice guy often overshadowed by the antics of "The Situation", "Pauly D", and "Ronnie". Guadagnino's decision to attend C|M|Law sent the school's "Reputation" score through the roof and swelled the number of applications to 500,000.

Although Guadagnino's decision was supposed to be kept secret, a yet-to-be-identified C|M|Law employee leaked his admission confirmation letter to Perez Hilton, and the both E! News and TMZ pushed the story. Because C|M|Law was unable to increase its number of maximum admitted students, the school's acceptance rate plummeted to .05%, making it the most selective school in America.

Admissions Dean Christopher Lucak did not expect Guadagnino to choose to attend Cleveland-Marshall.

"I read on Above the Law that he was considering law school, and I decided to send him a packet of information about C|M|Law, just for the heck of it. We treated his application like every other person's application, and he was accepted. However, his salary from Seasons one and two of Jersey Shore meant that he wasn't eligible for need-based financial aid, and his LSAT score was just a bit too low for us to offer him a merit-based scholarship. I did import some food from Little Italy to serve at lunch on Admitted Students Day, and I also overruled Dean Crocker and said we could replace the Moot Court Room with a gym and tanning bed, but we never expected this."

The Gravel spoke with Paris Seacrest, editor of U.S. News and World Report's Law School Rankings. Asked to explain C|M|Law's meteoric rise, he said, "Let's be honest. We think the new Community Health Clinic is a great thing and the proposed Trial Court Room has the potential to set the standard for the way in which technology is used in legal education. But at the end of the day, Vinny Guadagnino's decision to attend C|M|Law was the proximate cause of C|M|Law's rise in the rankings. In fact, it was the biggest factor affecting the change in any law school's ranking. The fact that 100-percent of Duke graduates got a job immediately out of law school with big firms? Who cares?! The fact that American University set up an externship program with the Supreme Court? That's just a minor thing. C|M|Law did what they had to do to show that they're one

of the elite schools in America, and we wanted to reward them for that."

However, Seacrest had some cautionary words for C|M|Law's deans. "Law school is only three years long. Once Vinny leaves, C|M|Law could very well slip right back into mediocrity. If you guys want to maintain this ranking, you better keep recruiting these types of students. You and I both know that Heidi Montag is going to be filing a ton of medical malpractice suits in a few years once all of that plastic surgery falls apart, and now that she's broke because The Hills is off the air, she's going to have to file all of those lawsuits on her own. She's gotta learn the law—she'd be a perfect fit."

Area man loves Colt McCoy



Area man Alex McCready loves former University of Texas quarterback Colt McCoy. When the Cleveland Browns selected McCoy in the third round of the NFL Draft, McCready celebrated by doing a faceplant into a brick building. His new haircut was unharmed.

2009 graduate Patrick Charles returns to discuss paper set for U.S. Supreme Court citation

By Kevin Kovach
EDITOR-IN-CHIEF

Patrick Charles, Cleveland-Marshall alumnus, scholar, and author, will soon add "U.S. Supreme Court cited" to his resume. The 2009 graduate personally observed Justice Stephen Breyer reference his article, "'Arms for Their Defence?': An Historical, Legal, and Textual Analysis of the English Right to Have Arms and Whether the Second Amendment Should be Incorporated in *McDonald v. City of Chicago*", during March 2 Supreme Court oral arguments. Briefs mentioned during oral arguments eventually appear in the final Court opinions.

Charles returned to C|M|Law April 5 to lecture about his article. The Law Review, which published the piece this year, sponsored the program.

Charles, who has researched and written extensively on the American Colonial period, spoke with *The Gavel* prior to his remarks.

He noted that he began "'Arms for Their Defence?'" at C|M|Law.

"It was an upper-level writing paper. I remember that after the district and appellate court opinions in *Heller* (the case that established the individual right to possess a firearm for home use in federal jurisdictions) came down and the case went to the Supreme Court, I thought the courts did not understand the history, so I thought I would do an originalist approach and look at every law from a keep arms and bear arms standpoint, to see whether any colonies' laws used these terms or any combination of the grammar, to see if it was in hunting, self-defense, or militia. I wanted to get a legal understanding of what 'keep arms' and 'bear arms' meant."

Charles credited Profs. David Forte and Steven Steinglass with helping to develop his work. During his lecture, Charles laughed and told the audience that one of his proudest moments came when he got Prof. Forte to admit that for a moment, Charles may have changed his mind on the issue.

After conducting his research, Charles took the view that states can regulate



gun ownership as they see necessary.

"The states have always had the right to control guns as they see fit," he said. "It's always been a state right—it's been that way for 240 years, and if we go to Anglo origins, we can say that the state has authority to determine and control who can keep guns. Gun control existed in the 1690s. Gun control existed in the 1640s. Dangerous and disaffected persons were disarmed. It all goes back to allegiance. Why were criminals and aliens traditionally restricted from owning guns back at the founding? They had no allegiance. They didn't support just government.

Look at the Hutaree militia that was just disarmed. They have no allegiance to government. How can you have arms if you have no allegiance to just government?"

Charles dismissed the notion that the Continental

Army was some motley crew of farmers who merely had personal firearms.

"They were drilling from 1774 onward, under the direction of government." The First Continental Congress convened in Philadelphia in 1774.

The scholar lamented the political impact he believes the *Heller* decision has had upon reasonable legislative measures to regulate guns.

"I was at Northeastern (University School of Law) and a representative from Massachusetts said, 'The *Heller* decision has changed everything, because before, you had people standing up in Congress saying they had the right to have a gun but they had no Supreme Court precedent.'

"Although *Heller* says you have a right to own a gun in your home, and it is very limited in how you can use that gun, and the state can determine how you may use that gun in your home, it's having a chilling effect on legislation. Legislation can't be passed at the state or federal level because (legislators) are too concerned about not being re-elected. Instead of it being an issue about 'We the People', and what's in our best interests, it's become a political issue with a slippery slope."

The Supreme Court is expected to issue its *McDonald* opinion in June.



TOP LEFT: Ohio Secretary of State Jennifer Brunner, candidate for the Democratic nomination for U.S. Senate, speaks in the Moot Court Room April 13. Photo by Kevin Kovach. BOTTOM LEFT (from left-to-right): Law Republicans Maryann Fremion, Dave Thomas, Rachel Kuhn, Jason Csehi, and Matt Hebebrand at the Cuyahoga County Lincoln Day Dinner, featuring guest speaker former Pa. Sen. Rick Santorum. Photo courtesy of Maryann Fremion.

EDITOR'S NOTE: Primary Election Day is May 4. Early voting began March 30. Any registered voter may vote in this election. Voting eligibility extends to all Ohioans, aged 18 or older, who are not currently incarcerated for a felony crime, nor have been convicted of a voter fraud felony. The only way an unincarcerated Ohioan of voting age may be legally disenfranchised is if the person has been convicted of a voter fraud felony. If you have questions about voting, contact the Cuyahoga County Board of Elections at (216) 443-3200 or the Ohio Secretary of State Voting Rights Institute at 1-877-VOTE-VRI (1-877-868-3874).

C|M|Law names up-and-down the ballot

By Joe Fell
ASSOCIATE EDITOR

Cleveland-Marshall has a long tradition of being well-represented in local, state, and national politics. Cleveland Mayor Frank Jackson, U.S. Representatives Steve LaTourette and Marcia Fudge, and both candidates for Ohio Supreme Court Chief Justice list C|M|Law on their respective resumes. This proud tradition continues this primary election cycle, as several students, faculty members, and C|M|Law staff seek elected office.

The majority of C|M|Law-affiliated candidates are running for seats on the Cuyahoga County Democratic Party Central Committee. Prof. Candice Hoke is running unopposed in Cleveland Heights Precinct 3-E with the intent to "assist in cleaning up problems in the local Democratic Party." Prof. Claire Robinson May is running in Cleveland Heights Precinct 3-C. Educational Programming Librarian Laura Ray is running in Seven Hills Precinct 1-B.

First-year student and new Cleveland Jethro Daly is running in Cleveland Precinct 5-I and hopes "to increase voter participation within Precinct 5-I and to try to build Cleveland into a

stronger city." Second-year student and SBA President-elect Will Norman, is on the ballot in Lakewood Precinct 4-I. Student Walter Biggs seeks the seat in Cleveland Precinct 14-E with the hope of bringing "leadership and development" to his neighborhood. Liberal "Political Broadside" columnist and 2008-09 Democratic Law Organization President Lindsey Wilber is running for a Lakewood seat on the Central Committee. Marc Stolarsky, an LLM student, has filed as a write-in candidate.

Gavel "Libertarian Contrarian" columnist Matt Brakey intends to seek the Republican nomination for Cuyahoga County Council District 10 in the September primary. Brakey said, "I am running as a Republican but do not identify with the party establishment." Heavy on allegory, Brakey pledges to stop the Medical Mart, if elected. "Even if I have to chain myself to a bulldozer, I won't rest until we stop this modern day robber-baron."

C|M|Law alumna and former Assistant Dean of Admissions Melody Stewart is seeking re-election to the Eighth District Court of Appeals and numerous other alums appear will on the ballot in local races throughout the year.

"Guiding light" Michael Scharf advocates for international law compliance

By Joe Fell
ASSOCIATE EDITOR

Prof. Michael Scharf is a "guiding light" in the international law community, both in Greater Cleveland and around the world. So said Associate Dean Mark Sundahl in his introduction of the Case Western Reserve University law professor, who visited Cleveland-Marshall April 15 to lecture on international law. Prof. Scharf is best known for his work with the Iraqi High Tribunal, the judicial body that conducted the trial of Saddam Hussein.

Prof. Scharf's lecture, titled "Shaping Foreign Policy in Times of Crisis", was intended to raise awareness of and interest in his recently published book of the same title. The lecturer began by asking attendees, "Is international law really law or not?" He then discussed the

views of realists like Harvard law Prof. Jack Goldsmith, who believe international law is not real law. Prof. Scharf stated that Goldsmith has recently co-authored an influential book titled "The Limits of International Law" that seeks to downplay the importance of international law.

The Case professor then discussed his own book, which he described as presenting a counter-weight to Goldsmith's arguments espoused in Goldsmith's book. "Shaping Foreign Policy in Times of Crisis" is a collection of interviews with the 10 living State Department Legal Advisers. The text describes the role of State Department Legal Adviser as "the government's principal expert in international legal affairs," and chronicles the experiences and opinions of the individuals who have filled this position dating back to the Ford Administration.

Prof. Scharf noted that the

interviews with the Legal Advisers revealed that all of them—regardless of political party affiliation—advocated to their respective presidents the importance of compliance with international law, and that the President agreed to adhere to international law in most situations. Compliance in some cases required the U.S. to refrain from the use of armed force and from acting in ways that may have had domestic political popularity.

Additionally, Prof. Scharf highlighted four instances in which the President disregarded the advice of the State Department Legal Adviser and pointed out how each of these situations had negative consequences, ranging from embarrassing publicity, to the weakening of America's diplomatic position in international matters like the "War on Terror" and the "War on Drugs". Prof. Scharf's lecture

clarified that international law still carries significance and that compliance with international law is in America's best strategic and diplomatic interests.

In a post-lecture discussion with *The Gavel*, Prof. Scharf reported that that he is currently working on a book about the trial of the individuals associated with the Pan Am 103 bombing in 1988. Prof. Scharf also stated that his most interesting interview was with Abe Sofaer, State Department Legal Adviser during Ronald Reagan's second term. Prof. Scharf is one of the founders of the Public International Law and Policy Group, an organization that describes itself as "a global pro bono law firm providing free legal assistance to states and governments involved in conflicts." In 2005, Prof. Scharf and the PILPG received a Nobel Peace Prize nomination.

Letter to the Editor: Is law student newspaper columnist himself a government economic development project?

I read the latest from columnist Matt Brakey in the March issue of *The Gavel* (“The hubris of government economic development”, p. 6). Since the columnist believes government economic development to be bad, destructive, and (pick your favorite pejorative), has Mr. Brakey already started paying back the hard-working taxpayers of the State of Ohio for their subsidization of his law school education, or is he waiting until his professional education starts to pay off for him to make his student contribution? We, the deluded saps who believe in the preservation of a societal commons that sometimes benefits a “Libertarian Contrarian”, have no expectation that the columnist will actually reimburse us for the continual largess that we pay, and which his apparent situational ethics

allow him to adamantly disdain in a column of a state-subsidized publication.

Being a 1987 alumnus, a resident of and taxpayer to the State of Ohio, and current employee of Cleveland-Marshall College of Law, I imagine Mr. Brakey believes me to be a leach and/or wealth destroyer, since my salary is partially funded by a State of Ohio subsidization of my employer. If that’s true, then what does that make Mr. Brakey—a “taxpayer subsidized economic development project”? Unless, of course, he repays us taxpayers, with interest.

—Schylar M. Cook ‘87
Head, Technical Services/
Government Information Librarian
Cleveland-Marshall Law Library

the anonymous

*The final column in a monthly series tracking
the experiences of an anonymous first-year law*

1L

By Anonymous 1L
STAFF WRITER

True story—the original draft of this column was the f-bomb repeated 500 times. Since I have respect for *The Gavel’s* editorial staff and wouldn’t want them to waste ink on such a substandard column, I opted to sink in some effort and write something proper. I am terribly sorry about missing the last installment.

While scheduling classes, I realized that I was finally going to be done with 1L year. It was going to be over, and I would officially be one-third of a lawyer. All I need to do is not botch my exams, and I will have survived 1L year with most of my dignity and sanity intact.

I can no longer imagine life without highlighters, Lexis, Westlaw, and being broke all the time. I had a hard time even remembering how to schedule classes; I thought such decisions would always be made for me. This whole experience has been the polar opposite of my undergrad experience, and it led me to wonder why I even wanted to go to law school.

I found my old personal statements and read them. I sounded so idealistic back then, cramming two pages with so much of my opinions and ideas while dancing around numbers like grade point average and LSAT score. I had great dreams and ambitions, and for a long time, they’ve deserted me. They’re back now. There’s no reason to forget about them, as sappy as that sounds.

With the economy so poor and my legal skill set so limited, I didn’t find the cushy, high-paying job I imagined I would find. I’ve since moved on to a backup plan which doesn’t involve getting paid. It’s still legal work, but it’s going to be hard to make ends meet over the summer. That said, it won’t cost me anything to keep dreaming, and there’s no harm in entertaining a long-range plan.

While this set of exams is make-or-break for a lot of people, I

would suggest taking an hour or two away from outlining, and studying, and Civil Procedure (because that is an animal all by itself) and read your old personal statement. Try to remember what was going through your head when you finished the LSAT. What did you tell your parents, friends, significant others, and strangers? Why Cleveland-Marshall?

The tour groups have started coming around. I don’t see them very often; I wonder if they are intentionally steered away from the angry, overworked 1Ls and shown only the upperclassmen rejoicing their escape from the Law Library and entry into something that pays. I want to go to these future 1Ls and tell them that they’re going to need to forget everything they learned before law school, that they should come in with a totally blank slate, and that they should approach this as business or work rather than approaching it as school. I want to tell them about the million mistakes that I made over the past two semesters and how to avoid them.

However, I don’t. I never will. Those mistakes and lessons are invaluable and part of the learning process. Having your dreams beaten out of you with a truncheon made of realism goes a long way, as awful and uncomfortable as that sounds.

As for my anonymity, I think I’m going to leave it that way. I might be back next year as the Anonymous 2L, or I might not be here at all. Either way, it’s been great knowing every one of you, even when we accused each other of being gunners or idiots.



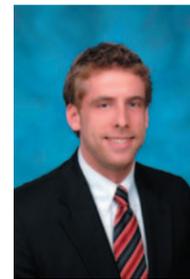
The Libertarian Contrarian

Question the role of the United States Supreme Court as the final arbiter of constitutional issues



In *Marbury v. Madison*, the United States Supreme Court established judicial review over executive and legislative actions. Though this opinion is the foundation of every Constitutional Law class, it is rarely asked whether the Court can fulfill this role in an independent and impartial fashion. The tacit assumption seems to be that it can. I contend that the Court is infested with systemic bias, making it inappropriate for the Court to be final constitutional arbiter.

Imagine that a Cleveland-Marshall student accused a dean of committing an impropriety. To handle these types of disputes, Cleveland State University President Ronald Berkman, with the advice and consent of the CSU Board of Trustees, appoints a panel of handpicked tenured CSU law professors. Would this process likely produce a judicial body that could neutrally settle disputes between students and the university power elite?



By Matt Brakey
COLUMNIST

Now imagine that a state objects to the federal government’s exercise of a power not delegated to it by the Constitution. To handle these types of disputes, the federal government’s President, with the advice and consent of the federal government’s Senate, appoints handpicked justices to the federal government’s Supreme Court. Would this process likely produce a judicial body that could neutrally settle disputes between states and the federal government power elite?

This institutional bias was not always so skewed. States once had a hand in the selection process of Supreme Court justices. A successful judicial appointment requires the advice and consent of the Senate. Prior to passage of the Seventeenth Amendment, Senators were appointed by state legislatures. After passage, Senators were elected by popular vote. Unsurprisingly, ratification of the Seventeenth Amendment ushered in a new federal hegemony.

Franklin D. Roosevelt’s presidency perfectly exemplifies this hegemony. In response to the Court’s repeated decisions striking down New Deal legislation, Roosevelt threatened to pack the Court with additional Justices. After this threat, the Court reversed itself and began finding New Deal legislation constitutional—the infamous “stitch in time that saved nine.” A truly neutral judiciary would have been immune to such pressure.

Henceforward, the Court has consistently failed to check federal power, often with terrible consequences. Take FDR’s Executive Order 9066, which authorized the internment of 120,000 Japanese-Americans in prison camps. Not only did the federal government

suspend habeas corpus and deprive U.S. citizens of life, liberty, and property without due process of law, but the Supreme Court legitimized this action in *Korematsu* by a six-to-three margin. Despite the fact that this executive order was morally reprehensible and prima facie unconstitutional, the Court nevertheless was complicit.

Imagine that another terrorist attack occurs on American soil. In response, our federal government again erects concentration camps.

All Arab-Americans are incarcerated irrespective of citizenship and without due process. Many of these camps are housed in our state. The precedent is clear; *Korematsu* is still good law; consequently, the state of Ohio must comply. Or does it?

In such a situation, states can and should reestablish themselves as constitutional arbiters that force federal actors to abide by the terms. Short of

repealing the Seventeenth Amendment, is there precedent to support a role for states in constitutional law enforcement?

There is precedent – the act of nullification. In 1798, Congress passed the Alien and Sedition Acts making it a crime to publish “false, scandalous, and malicious writing” against certain members of the federal government. Citing violations of the First and Tenth Amendments, Thomas Jefferson and James Madison, respectively, wrote the Kentucky and Virginia Resolutions. After passage, these resolutions made the Acts “void” and “of no force” in the states of Kentucky and Virginia. This is not to say that the Supreme Court should play no role in constitutional interpretation, only that it is unjust for one party of a contract to have sole interpretive power.

States must always nullify federal tyranny, thereby sanctifying the liberties enshrined in the Constitution. I will close this column and year with a quote from John C. Calhoun:

“Stripped of all its covering, the naked question is, whether ours is a federal or consolidated government; a constitutional or absolute one; a government resting solidly on the basis of the sovereignty of the States, or on the unrestrained will of a majority; a form of government, as in all other unlimited ones, in which injustice, violence, and force must ultimately prevail.”

Editor’s note: This column is called “The Libertarian Contrarian” for a reason. The *Gavel* editors share neither the author’s views on the role of the United States Supreme Court, nor his advocacy of antiquated theories that nearly triggered the Civil War 31 years before the attack on Fort Sumter.

Would you like to write the liberal or conservative “Political Broadside” column during the 2010-11 academic year? Email gavel@law.csuohio.edu as soon as possible to stake your claim!

POLITICAL BROADSIDE

THE FORUM FOR DEBATING THE HOT-BUTTON ISSUES OF THE DAY

Issue 6: Should Ohio change the way it selects judges?

A LIBERAL ARGUMENT

The key factor in our legal system—which I believe to be the bedrock of American democracy—is the idea of an impartial judiciary. The entire legal system can break down without judges that are independent, thoughtful, and knowledgeable. While we as attorneys will often deal with judges, most of the population will only



By Lindsey Wilber
LIBERAL COLUMNIST

be in front of a judge on a small number of occasions, if at all, in their lifetimes. It doesn't take more than a quick look at the front page of *The Plain Dealer* to see that our current system of electing judges has not provided us with the "cream of the crop" sitting on every bench. I'm not suggesting that all of our judges are corrupt liars that need to review the Model Code of Judicial Conduct, but public perception is king—if one judge is bad, they make the rest of the system look bad. The best way to reform the judicial system is by a hybrid approach that takes into account both the long-held tradition of electing public officials and the idea of merit selection.

At the municipal level, I believe that trial judges should still be elected by the residents within their jurisdiction. First, I believe that it is important that the public feels connected with local municipal government. Municipal trial judges are seen more as "public officials" than most other judges; consequently, municipal trial judges should still be publicly elected. The majority of people who find themselves in court are there on a traffic ticket or other minor infraction. If judges are deciding their fate, then the judges must be accountable to the people. Secondly, appointment boards on the municipal level will be too costly for many small communities to maintain, making them an inefficient and illogical choice.

At all other levels, judges should be appointed by merit selection and retained by election. For example, in Cuyahoga County, our new Cuyahoga County Executive could appoint judges based upon the recommendation of an advisory board. This board should reflect the diversity that exists within Cuyahoga County. I would recommend

a panel of 12-16 people, half of whom would be lawyers and half of whom would be non-lawyers. Lawyers would be recommended by local bar associations and approved by the Cuyahoga County Council. Non-lawyers would be selected in the same manner that is used for jury selection or they could be appointed from a group of candidates who wish to volunteer for the appointment board. No more than half of the members of the board would be of the same political party, and in an ideal world, no more than half of the board would be of the same gender or race. This would ensure not only bipartisanship but diversity in experience and background as well.

The best way...is a hybrid approach

Once established, the board would be given a list of qualified candidates compiled by local bar associations. Judicial candidates would have to go through a rigorous screening process in which they would have to show their understanding of the law, their commitment to justice, and most importantly, an exemplary moral character. The names of the top three candidates for each bench would then be submitted to the county executive, who would then make the final decision and appoint the candidate. Going forward, the newly-appointed judge would serve a one-year probationary period and then be on the ballot in a retention election in which the voters would determine if the judge would be retained. If a judge is retained, then he or she would continue to serve and would be subject to retention votes every four years. I would even go so far as to establishing a three-term maximum for judges.

It is predicted that up to 50-percent of voters in Ohio's primary election on May 4 will skip over the judicial candidates. Spring primaries typically have very low turnout, making this fact even more troubling. The truth is that we in the legal community have done a poor job educating people as to the importance of good judges. We need to change that; at this stage, that means changing the manner in which we put judges on the bench.

CONSERVATIVE REBUTTAL

While I realize the sacred importance that the American people place on being able to elect public officials such as judges, I too favor the hybrid approach as suggested by Chief Justice Moyer. As you point out, most voters skip over the judicial candidates. In some cases, people tend to vote solely based upon name recognition or political affiliation when lacking any other information. The majority of judges who are in opposition to the potential change from a purely electoral system to a hybrid electoral-merit system most likely benefit from the current system. After spending years to create name recognition, incumbent judges see no need to change the system because of their vise-like grip on the office.

I disagree that the County

Executive should be responsible for appointment of judges. This power should lie exclusively with the Governor of Ohio. As the chief executive of the state, the governor should retain the power of appointment over judicial officials. Additionally, I do not like the idea of involving the Cuyahoga County Council in the process either. This gives too much political power to an entity of this nature and corruption of the legal system would almost be certain in counties like Cuyahoga County. Instead, I favor a system that creates an independent, bipartisan advisory board that would issue a list of three final candidates to the governor for approval.



A CONSERVATIVE ARGUMENT

The issue of judicial selection cuts to the very heart of our national democratic tradition. On one hand, justice must be impartially administered. Judges must be selected because of their ability as jurists, not simply because of their political affiliations. In deciding a case, a judge must be governed by principles of law and the merits of the litigant's case, not the litigant's political position.

On the other hand, under our common law tradition, judges—particularly appellate judges—decide cases which become law. Judges are given immense power in this country. They have the power to interpret statutes, review administrative decisions, and declare legislative and executive actions unconstitutional. The fact that judges often decide issues of tremendous significance to the general public means that the public must retain some control over the judiciary.

No approach is going to be perfect. Elected judges—particularly those who must run for re-election—must raise campaign funds. This practice can raise issues as to their objectivity when it comes to their treatment of potential and actual campaign donors. Also, some highly qualified candidates may not wish to be elected officials. Further, in many jurisdictions with elected judges, the judge is initially appointed either to fill a newly created seat or to replace a judge who has left the bench before the end of his or her term of office. Once in office, judges are almost always re-elected.

An appointment system tends to result in the appointment of judges who are politically connected to whomever is making the appointments, which can mean that past campaign contributions or other favors to the person making the appointment can be more important than other qualifications. The term of the appointment can also impact the quality of a judge's performance.

In Ohio, all judges are currently elected by the voters. Also, the election campaigns of judicial candidates are typically supported by a political party. For most voters, casting an informed



By Mike Borowski
CONSERVATIVE COLUMNIST

ballot for a judicial candidate is extremely difficult because it is hard to find good decision-making information. For this reason, there is a continuing interest in finding a better way to select judges in Ohio.

Conventional wisdom often holds that appointed judges are superior to elected judges because appointed judges are less vulnerable to political pressure. However,

there is little empirical evidence for this view. Studies have shown that suggest that elected judges are more focused on providing service to the voters, whereas appointed judges are more focused on their long-term legacy as creators of precedent.

If we lived in a perfect world, a system of appointed judges would be best if coupled with some recall provision where voters could vote a judge out if a large enough percentage of the vote in favor of recall were garnered. Presumably, the person making the appointments would have

No approach is going to be perfect

a lot of input from knowledgeable people who would be able to evaluate who would truly be qualified to serve. This appointment/retention vote approach was favored by recently deceased Ohio Supreme Court Chief Justice Thomas Moyer. Under the proposed system, the governor would fill vacancies on the court by choosing among three candidates who are recommended by a bipartisan panel of lawyers and laypeople. A justice would serve two years and then run in a retention election with no opponent. Retention elections would be held at regular intervals after that.

The electorate generally does not have very much knowledge when it comes to electing judges, and people end up being elected based on many things other than on their qualifications. Also, the electorate may penalize a judge and hold them hostage if they take an unpopular position on a legal matter, even if their position is the legally correct one. I believe that Chief Justice Moyer's suggestion for an appointment/retention vote approach should be explored more by those interested in reforming how Ohio chooses its judges.

LIBERAL REBUTTAL

After such a tumultuous year, it is nice to see that there are still issues on which both parties can find common ground. Finding a way to reform judicial selection is a critical issue, and it is an issue that must be tackled within the next few years if our justice system is to remain credible. While I share Mike's concerns over the appointment process, I truly feel that it is the lesser of two evils. If Republicans and Democrats can find a way to work together to devise a system that is fair and transparent, then we will have come a long way towards mending many of the rifts that have sprung up over the last year or so.

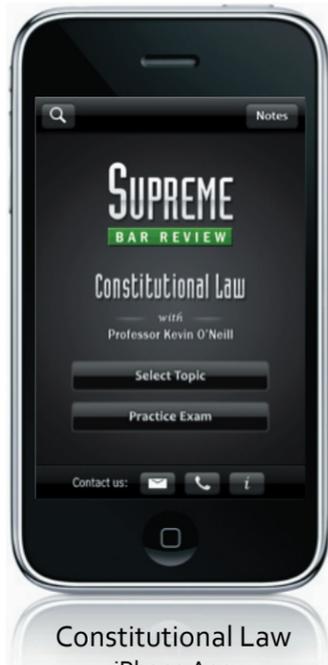
In closing, I would like to thank Mike. I have truly enjoyed sparring with

you these last few months. Healthy and respectful discourse is essential in a democracy; this is a fact that many of us would do well to remember. As we go forward, I ask that all of you remember that a person with whom you disagree is still a human being. What might be more important than getting them to see issues your way is understanding why they see issues their way. Understanding and compassion are in short supply in today's politics, and until we stop looking out primarily for our side and start looking out for our country first and foremost, political conflict is only going to get worse. The ideals that bind us are stronger than we know, and common ground can be found by those brave enough to look for it. Good night, and good luck.

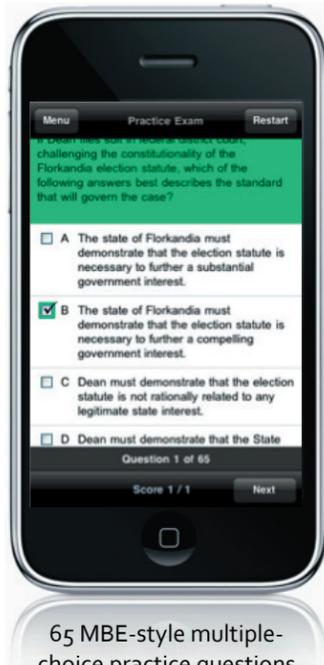


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