

Faculty Focus

November 2006



In Memoriam
Earl M. Curry, Jr.
September 20, 1933-October 27, 2006

FACULTY PUBLICATIONS

Michael Borden, *The Role of Financial Journalists in Corporate Governance*, FORDHAM J. CORP. & FIN. L. (forthcoming).

Dena Davis published "The Puzzle of IVF" in the Symposium 2006 issue of Houston Journal of Health Law & Policy.

Fordham Law Review accepted for publication an article written by Patricia McCoy and **Kathleen Engel** entitled "Turning a Blind Eye: Wall Street Finance of Predatory Lending."

David Forte's "Regime Change," Review of THE FAILURE OF THE FOUNDING FATHERS" JEFFERSON, MARSHALL, AND THE RISE OF PRESIDENTIAL DEMOCRACY, by BRUCE ACKERMAN, THE CLAREMONT REVIEW OF BOOKS, Summer, 2006, was republished in THE WALL STREET JOURNAL ONLINE, September 29, 2006.

Deborah Geier's article, "Murphy and the Evolution of 'Basis,'" was published in the November 6th issue of TAX NOTES.

Kevin Francis O'Neill's article, *Privatizing Public Forums to Eliminate Dissent*, has been accepted for publication in the Spring 2007 issue of the FIRST AMENDMENT LAW REVIEW, published by the University of North Carolina School of Law.

Christopher Sagers, "The Myth of 'Privatization,'" 59 ADMIN. L. REV. (forthcoming 2007).

Steven H. Steinglass, SECTION 1983 LITIGATION IN STATE AND FEDERAL COURTS (Thomson/West) (projected July 2008 completion date).

Alan Weinstein, *Eminent Domain: Judicial and Legislative Responses to Kelo*, 58 PLANNING & ENVIRONMENTAL LAW NO. 11 (2006).

SPEAKING ENGAGEMENTS

On September 12, **Gordon Beggs** spoke to the Christian Legal Society and guests on the topic of "Christianity and the Study of Law."

On November 2, **Michael Borden** gave a talk entitled "Mistake and Disclosure in a Model of Two-Sided Informational Inputs" at the Capital University Law School as part of their Faculty Lecture Series (and our faculty speaker exchange program).

Dena Davis was one of three plenary speakers at "Finding the Genome: Group Interests in Genetic Research and Testing," at University of North Carolina--Chapel Hill on September 15, and at "The Human Genome and Being Human: A Community Conversation on Our DNA, Health, Values and Heritage," at Durham, NC on September 16.

On October 20, **Kathleen Engel** presented her research on the economics and impact of predatory lending at the Fair Housing and Fair Lending Conference that took place at the Cleveland-Marshall College of Law.

On November 16 and 17, **Kathleen Engel** will be a commentator at a conference, held at the University of Connecticut School of Law, on the *Watters v. Wachovia Bank* case pending before the United States Supreme Court. The topic of the panel is the economics of bank preemption.

David Forte gave the following addresses:

"Gonzales v. Oregon," at First Monday in October Faculty Forum, Cleveland-Marshall College of Law, October 3, 2006.

Commentary on Alliance for Justice Film, "Quiet Revolution," American Constitution Society, Calfee Halter & Griswold, Cleveland, Ohio, October 16, 2006.

"U.S. Constitutional Law for Judges and Magistrates," The Ohio Judicial College, Independence, Ohio, October 6, 2006.

"The Constitution and the New Supreme Court," The Acton Institute, Grand Rapids, Michigan, September 6, 2006.

“Originalism and Conservatism,” American Political Science Association Annual Meeting, Philadelphia, Pennsylvania, September 1, 2006.

Forum on "Election Time: Where We Are, Where We Need to Go," with Norman Robbins, an emeritus professor at Case Western Reserve University, and **Candice Hoke**, a professor in the Cleveland-Marshall College of Law and director of the Center for Election Integrity at Cleveland State University, at the First Unitarian Church of Cleveland in Shaker Heights, October 15, 2006.

Dennis Keating will present a case study of the history of diversity policy in the Chicago suburb of Oak Park at the annual meeting of the Association of Collegiate Schools of Planning (November 9).

Dennis Keating will present a paper on the causes, prevention, and amelioration of housing abandonment at the "Revisiting Rental Housing" Summit at the Harvard University Joint Center on Housing Studies, underwritten by the MacArthur Foundation (November 15).

On October 18, **Christopher Sagers** testified in Washington, DC on behalf of the America Bar Association's Antitrust Section before the U.S. Antitrust Modernization Commission, at the Commission's request. He spoke to urge the Commission to recommend that Congress repeal the antitrust exemption contained in the Shipping Act, one of the last remaining outright antitrust exemptions. He testified for the ABA Antitrust Section because he had earlier drafted the comments the Section submitted to the Commission on this matter.

On October 25-28, **Lloyd Snyder** joined Jack Guttenberg and 23 other Ohio lawyers, judges, and law professors for a seminar on law and legal philosophy sponsored by The Justice Institute for the Legal Profession. The discussions centered around readings of material by many people including Plato, Dostoevsky, Martin Luther King, de Tocqueville, Shakespeare, and several law professors. The highlight of the program was a discussion with Nate Jones, former 6th Circuit Court of Appeals judge and general counsel to the NAACP, about the legal strategy leading up to *Brown v. Board of Education*. His session took place at the site of a fugitive slave trial held in Granville, Ohio in 1841.

On October 4, **Mark Sundahl** delivered a paper entitled "*Information Warfare: The Legal Aspects of Using Satellites and Jamming Technologies in Propaganda Battles*" at the 2006 *International Astronautical Congress* in Valencia, Spain.

Adam Thurschwell spoke at the "Centennial Conference on Levinas and Law" at McGill University, Sept. 16-18, and at a symposium titled "The New Exceptionalism: Law and Literature Since 9/11" at Cardozo Law School on October 29.

Alan Weinstein, "Eminent Domain in Ohio After *Kelo*, *Norwood* and the Legislative Taskforce Report," OPC/APA Zoning Workshop, Cleveland, OH (October 27, 2006).

DID YOU KNOW?

Kathleen Engel and a team of economists received an award of \$280,000 from the United States Department of Housing and Development for a project entitled, "A Study of High Cost Loans and Fair Lending Compliance."

Kathleen Engel was appointed to the Board of Directors of a new non-profit organization--Americans for Fairness in Lending.

David Forte attended the Philadelphia Society Meeting on "The Contested Roots of American Liberty," Pittsburgh, Pennsylvania, October 6-7, 2006.

David Forte also attended the Annual Meeting of the Ohio Association of Scholars on "The Michigan Civil Rights Initiative," Columbus, Ohio, October 20, 2006.

Dennis Keating has been named President of the Housing and Built Environment Committee of the International Sociological Association.

Karin Mika has been appointed to the Scholarship Committee of the Legal Writing Institute, whose job it is to formulate rules for making scholarship grants and then awarding them for appropriate proposals.

Kevin F. O'Neill appeared at Cleveland Public Theatre to offer commentary following a play about the prisoners at Guantanamo. On previous nights **Jim Wilson** and **Brian Ray** provided commentary. Audience members had questions about the U.S. Supreme Court's decisions in this area (*Hamdi* and *Hamdan*) as well as the new legislation that Congress recently passed on Guantanamo military commissions.

Kunal Parker has been appointed to the Editorial Board of the journal "Law and Social Inquiry" beginning January 1, 2007.

Brian Ray worked with Bob Rawson of Jones Day to help plan and organize for the American Bar Association's Commission on Civic Education and the Separation of Powers. Rawson is the Commission's chair and the honorary co-chairs are Justice O'Connor and Bill Bradley. See the link below.

<http://www.azcentral.com/news/articles/1025oconnor1025.html>

On September 15, the Cleveland State University Board of Trustees voted to recognize **Steve Werber** as a Professor of Law Emeritus.

Steve Werber is participating in the Cleveland Bar Assn 3 R program and is part of a team Captained by **Pam Daiker-Middaugh** that is working with tenth grade students at JFK High School. A number of C-M students, faculty, and staff are also involved in the

program, including **Daniel Dropko**.

On October 29, **Steve Werber** appeared on the Golden Opportunities program, on Channel 3 and hosted by Armon Budish, discussing aspects of the new election laws.

NEWS CLIPPINGS

"**Cheers** . . . to Cleveland State University's Cleveland Marshall College of Law for last week's bar examination returns that saw the law school score its highest results in at least nine years. **Eighty-four percent** of the Cleveland Marshall grads who took the bar exam passed, compared to the 72 percent who passed last July's exam." CLEVELAND PLAIN DEALER, November 3, 2006.

Phyllis Crocker is quoted in the following article: Mark Puente, *Fairness of Lorain Police Probe Questioned*, CLEVELAND PLAIN DEALER, September 12, 2006.

Michael Davis:

- On November 3, Channel 19 interviewed law student Angela Simmons for a follow-up story on behalf of Professor **Michael Davis** and the students in his Copyright, Trademark and Patent Law class. The students filed an opposition to Redux Beverage's application to register the name of its energy drink "Cocaine" as a trademark for a new high-energy soft drink. The other participating students are Matt Delaney, Jessica Fajfar, Irina Vinogradsky and Mike Wendolowski.
- Excerpt from CNN, SHOW: AMERICAN MORNING 7:00 AM EST, October 19, 2006: "Recently students from the **Cleveland Marshall School of Law** filed a complaint under the guidance of their professor. They argue that the trademark name Cocaine violates United States Patent & Trademark Office statutes, which forbids immoral or scandalous trademarks, but that action, if successful, could take months."
- Lauren McCormack, *New 'Cocaine' Drink Sparks Controversy, Local Concern*, Penn State's THE COLLEGIAN, October 18, 2006 (discussing Professor **Michael Davis** and students' challenge to the "Cocaine" trademark.)
<http://www.law.csuohio.edu/public/announcements/LawStudentsChallengeCopyright.doc>
- Mary Vanac, *CSU Law Students Take on "Cocaine" in Trademark Case*, CLEVELAND PLAIN DEALER, October 11, 2006. ("Second-year law students Matthew Delaney, Jessica Fajfar, Angela Simmons, Irina Vinogradsky, and Mike Wendolowski were ready. Under the direction of their professor, **Mickey Davis**, the students spent the past 10 days writing an 'opposition' to the Cocaine trademark.")

- The link below will take you to an Associated Press article in the October 11 *Las Vegas Sun* regarding the students in **Michael Davis's** copyright, trademark and patent law class, who are fighting an attempt by a soft drink company to use "Cocaine" as a trademark for a new high energy soft drink. Students Matthew Delaney and Angela Simmons are mentioned and quoted.
<http://www.lasvegassun.com/sunbin/stories/nevada/2006/oct/11/101110045.html>

CSU Communications Professor Rick Perloff is the author of an article appearing in the September 20 issue of the *Cleveland Free Times*, "'Charity' With Valet Parking: Cash-strapped Local School Districts Challenge the Clinic and UH's Tax-exempt Status." Cleveland-Marshall Professor of Law **Veronica Dougherty** and CSU Vice President for Economic Opportunity Ned Hill are both quoted. Law school alumnus **David Seed '95** is also mentioned in the article. You may read the entire article, on this link:
<http://www.freetimes.com/story/789>

Kathleen Engel:

- Patricia McCoy and **Kathleen Engel** wrote an Op-Ed piece that appeared in the CLEVELAND PLAIN DEALER on 9/29/06 entitled "Mortgage Rate Disparities Hurt Borrowers, Communities."
- **Kathleen Engel** is quoted in an article by Mark Gillispie, "Subprime industry explodes along with profits," in the September 17 issue of the CLEVELAND PLAIN DEALER:
http://www.cleveland.com/search/index.ssf?/base/cuyahoga/1158482351226180.xml?ncounty_cuyahoga&coll=2
- **Kathleen Engel** is quoted in the following article: Mara Der Hovanesian, *Nightmare Mortgages: They Promise the American Dream: A Home of Your Own—With Ultra-Low Rates and Payments Anyone Can Afford. Now, the Trap has Sprung*, BUSINESS WEEK, September 11, 2006.

Candice Hoke is quoted in the following articles or newscasts:

- CNN, October 31, 2006 and November 1, 2006.
- Richard Wolf, *Election Cliffhanger: Will it all Work?*, USA TODAY, October 27, 2006.
- Tasha Flournoy, *5,100 Voters Get Flawed Absentee Ballots*, CLEVELAND PLAIN DEALER, October 10, 2006.
- On October 6, Fox News National interviewed Professor **Candice Hoke**, Director of CSU's Center for Election Integrity. Professor Candice was a member of the independent panel, appointed by the Board of Elections to study mishaps and recommend remedies in a variety of voting procedures.

- Cleveland State University's **Center for Election Integrity**, a partnership of the law school and the Levin College of Urban Affairs, was featured on several national media websites on October 4 for its work in developing guidelines for training and recruiting reliable and efficient poll workers. Professor of Law **Candice Hoke** is the Center's Director and the Levin College's **Abigail Horn** is the Center's Assistant Director as well as the College Poll worker National Study Director, the research project that is gathering the national data to develop guidelines and to create a poll worker training manual.
<http://kron.com/Global/story.asp?S=5492237>
<http://biz.yahoo.com/prnews/061003/cltu127.html?v=3>
- Joan Mazzolini, *Elections Board to Rent 30 Extra Vote Scanners; Out of Space for More, Panel Hopes to Start Reading Absentee Ballots Three Days Early*, CLEVELAND PLAIN DEALER, October 3, 2006.
- On September 13, federal election expert, **Candice Hoke**, was interviewed on National Public Radio's "All Things Considered," about mishaps in Cuyahoga County's new electronic voting machines. You may read or listen to the excerpt on the link below.
<http://www.npr.org/templates/story/story.php?storyId=6069712>

Kenneth Kowalski is quoted in the following article: Alan Johnson, *Minimum-Wage Battle Rages; Issue 2 Foes Raise Privacy Concerns; Supporters Call That a "Red Herring,"* THE COLUMBUS DISPATCH, September 25, 2006.

IN MEMORIAM

"Earl M. Curry Jr. 1933 - 2006 Survivors: Wife, Virginia Wallace-Curry; daughters, Sarah of Cleveland Heights and Lucy of Albuquerque, N.M.; and a sister. . .

Earl Curry, a labor arbitrator and law professor who instructed students on the fine points of settling disputes, died of complications from cancer Friday at his home in Orange.

The former Shaker Heights resident, who died at age 73, also taught property law, estates and trusts, future interests, and jurisprudence at Cleveland State University's Cleveland-Marshall College of Law for 27 years before retiring in 2001. For several years, he served as an associate dean.

Curry handled his first arbitration case - Republic Steel Corp. versus United Steelworkers of America - while teaching law at the University of Akron in the early 1970s. He continued working as an arbitrator until retiring five months ago.

He was born in Logan, W.Va., and grew up in Pineville, W.Va., where his father owned a furniture store.

Curry earned a bachelor's degree and a law degree from West Virginia University. He also held a master's degree in retailing from the University of Pittsburgh and a master's of law from New York University Law School.

During his tenure, Curry helped establish a professor-exchange program between Cleveland-Marshall and the law school at the Polytechnic of Central London, now the University of Westminster. He participated in the program as a teacher at the London school during the 1984-85 academic year.

He traveled throughout Europe with his wife and two daughters during their time in England. Curry and Virginia Wallace, who also became an arbitrator, were married in 1981.

Curry regularly supported charitable agencies that fed the needy, helped disadvantaged children and provided legal services to the poor. He also contributed generously to the election campaigns of his favorite Democratic candidates.

His wife called him "a proud liberal," who "was looking forward to a Democratic sweep in the upcoming election.""

Alana Baranick, *Earl M. Curry, 73, Associate Dean at Cleveland-Marshall*, CLEVELAND PLAIN DEALER, November 3, 2006.