

Law School Name Framing Document

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I. Introduction/Guiding Principles

The History of CSU Cleveland-Marshall

We are an historic institution and are very proud of our iconic history. The Cleveland-Marshall College of Law at Cleveland State University¹ is the direct descendant of two law schools, the Cleveland Law School founded in 1897, and the John Marshall School of Law, founded in 1916. In 1946, the two law schools merged to become Cleveland-Marshall Law School. In 1969, the law school joined Cleveland State University and was renamed the Cleveland-Marshall College of Law at Cleveland State University. We consistently have been the law school for many women and men who have broken gender, race, ethnic, economic, and generational barriers to make change and advance progress in social justice, civil rights, and public service.

The Petition

In the summer of 2020, Cleveland-Marshall College of Law at Cleveland State University was presented with a petition that C|M|LAW change its name so that it no longer be named after Chief Justice John Marshall, the fourth Chief Justice of the U.S. Supreme Court. The petition is at this link: <http://renamejohnmarshall.com/>

The basis for the petition to change the name of C|M|LAW is a 2018 book, **Supreme Injustice, Slavery in the Nation's Highest Court**, by Paul Finkelman. In his book, Finkelman acknowledges that there are good reasons why John Marshall is considered our greatest chief justice, noting “*he is central to our constitutional development and an icon of our constitutional history.*” But he documents that “*in his personal life, Marshall bought and sold slaves, gave them to relatives, and actively participated in the business of human bondage.*”

In Finkelman’s [article in The Atlantic](#), he states:

John Marshall is America’s most important jurist. Biographers are universally laudatory of the “Great Chief Justice.” . . . But the country must now reevaluate this venerated figure in American history . . . Though some will surely deride these decisions as “cancel culture,” they are part of an earnest and deserved reckoning, the result of an effort to fully understand Marshall’s jurisprudence and his personal life, and to examine whether his profound impact on American law was not as honorable as we have previously believed . . .

¹ Throughout this document we refer to Cleveland-Marshall College of Law at Cleveland State University as “CSU Cleveland-Marshall” or “C|M|LAW” or “Law School.” Within the CSU community, Cleveland-Marshall College of Law is referred to as the “Law College,” but because we are better known outside the CSU community as the “Law School,” we use the term “Law School” in this document.

UIC John Marshall Law School

The same petition that was submitted to CSU Cleveland-Marshall was also submitted at about the same time to UIC John Marshall Law School in Chicago which traced its name to its founding in 1899 as The John Marshall Law School. Hanna Kassis, an alumnus of UIC John Marshall Law School, is the main drafter of the petition. He resides in Cleveland.

UIC John Marshall Law School Dean Darby Dickerson appointed a “Task Force to Consider Renaming the Law School” (“Task Force”) consisting of seven people. Dean Dickerson did not serve on the Task Force. The Task Force held several forums with students, staff, faculty, and alumni but did not hold any forums with experts on the legacy of Chief Justice Marshall or with any institutions that considered renaming themselves. The Task Force allowed for comments on its website but did not conduct any survey.

Following the Task Force’s 6-1 vote to recommend to rename the law school in February 2021, the UIC John Marshall faculty voted in favor of a new official name in March 2021. On May 20, 2021, the University of Illinois Board of Trustees approved changing the name of the UIC John Marshall Law School to the University of Illinois Chicago School of Law.

The Task Force report submitted to the UIC Board of Trustees noted, “that despite Chief Justice Marshall’s legacy as one of the nation’s most significant U.S. Supreme Court justices, the newly discovered research regarding his role as a slave trader, slave owner of hundreds of slaves, pro-slavery jurisprudence, and racist views render him a highly inappropriate namesake for the Law School.” Associate Dean Samuel V. Jones, who headed the task force, stated that another important consideration was that Chief Justice Marshall and his descendants had no connection to the law school other than its name. “He was not an alumnus of the school and his family didn’t give any money to the school,” he said.

UIC Chancellor Michael Amiridis stated, “The university has arrived at this new name following a thorough and carefully studied process that included input from all corners of the institution and beyond, considered issues of racial injustice and aimed to ensure that our university continues to be a place where diversity, inclusion and equal opportunity are supported and advanced.” See <https://today.uic.edu/board-approves-new-name-for-uic-law>.

The C|M|LAW Law School Name Committee and its Charge

Soon after the petition was presented, C|M|LAW Dean Lee Fisher formed a [C|M|LAW Law School Name Committee](#) (“Committee”) of students, staff, faculty, and alumni as each of these constituents have a vital stake in the ultimate decision. Before forming the Committee, Dean Fisher conducted research to determine how other higher education institutions who have been faced with similar issues have addressed them. He

found that virtually every college, university, and law school formed a committee, task force, or study group to address the issue. Most conducted a thorough, deliberate process, usually ranging in length from one to two academic years, to ensure all relevant stakeholders had the opportunity to express their views.

The charge to the Law School Name Committee is “to seek wide input, develop findings and options, and ultimately make a recommendation, or a set of alternative recommendations, to the university for consideration about whether ‘Marshall,’ named after Chief Justice John Marshall, should be removed from our Law School’s name.”

It should be noted that the primary issue before us now is whether to retain or remove the name of John Marshall from our Law School. We have, however, included a brief section in this document devoted to some possible alternative names simply for context and discussion.

The Committee includes people opposed to the name change, people in favor of the name change, and those who are undecided. Dean Fisher asked all members of the Committee to do their best to keep an open mind throughout the process. Ultimately, the question is, based on all we know about Chief Justice Marshall, should we remove his name from the Law School or continue to honor his legacy by maintaining his name in the title of our Law School.

The Committee developed an excellent Resource Guide which is updated regularly: <https://guides.law.csuohio.edu/lawschoolnameguide>. We also have a Law School Name Committee website page: [C|M|LAW Law School Name Committee](#).

The Law School Name Committee met several times in the Fall 2020 semester and determined that a series of public forums should be held in 2021. It was also determined that a Framing Document would be written in 2021 that addressed the reasons for and against a name change. The Committee held some moderated virtual public forums in the 2021 Spring semester open to all students, staff, and faculty as well as alumni groups, to provide context for the fact-finding and decision-making process. The Committee asked the speakers to address how institutions such as ours should approach important decisions like the one before us and how we should understand our nation’s history and its legacy. One session focused specifically on the legacy of Chief Justice Marshall. *Below are links to the three Spring 2021 Forums:*

[**April 27, 2021 – The Legacy of Chief Justice John Marshall**](#)

[**April 23, 2021 - Guiding Principles for Naming Institutions**](#)

[**March 22, 2021 - Facing and Confronting Our History**](#)

In the 2021 Fall semester, the Committee held three Town Halls. The Town Halls on November 17 and 23, 2021 were open to all students, staff, and faculty, emeriti faculty and associates, leaders-in-residence, and members of the Board of Visitors and Alumni Law Association Board. The November 19, 2021 Town Hall was for students only. Each

of the Town Halls were well attended with active participation and diverse viewpoints. *Below are links to the three Fall 2021 Town Halls:*

[November 23, 2021 - Law School Name Community Town Hall](#)

[November 19, 2021 - Law School Name Student Town Hall](#)

[November 17, 2021 - Law School Name Community Town Hall](#)

As lawyers we are trained to listen and learn, and to withhold judgment until we have a chance to evaluate what we have heard. The process followed by the Law School Name Committee models what we teach our students. After each of the 2021 Spring and Fall Forums and Town Halls, Dean Fisher received communications from people opposed to the name change and those in favor, most praising the Forums and Town Halls. Many commented that they appreciated the Committee making this a “teachable moment” where even if someone does not change their mind, they are better educated and informed about all the competing viewpoints and considerations.

Guiding Principles²

Below are Guiding Principles that a majority of the Law School Name Committee approved to not only assist the reader’s review and analysis but also to inform the Law School’s and University’s ultimate decision-making process. These are meant to inform and assist in the decision-making process and as such are not meant to be limiting or prescriptive in nature.

Consequential Decision

- Removing “Marshall” from our name or renaming the Law School after another individual would be a very consequential decision by both the Law School and Cleveland State University that requires careful study and thoughtful consideration of different viewpoints.
- Names matter. It cannot be that a naming in honor of a person never should be changed. We all can imagine naming a building or institution in honor of a person that we would want changed. But it also cannot be that such names should be easily changed.
- We should study how other institutions have approached naming and renaming issues, while understanding that each case differs and needs to be decided on its own merits.
- Whatever decision is finally made by the University Board of Trustees, our goal is that those on all sides of the issue will respect the process that the Law School and University undertook.

² These Guiding Principles are based in large part on research about guidelines used by other institutions when deciding to name or rename a building, school, college, university, or law school.

Reckoning With Our History

- In considering a name change, we should conduct a thoughtful and inclusive process, informed by deep and careful historical research.³
- History comprises both facts and interpretations of those facts. To change the name of a school is not to erase history, but rather to expand on a previous interpretation of history in light of new facts or circumstances. A naming is not history itself; a naming commemorates an aspect of history, representing a moment in the past when a decision defined who would be honored.⁴
- Naming decisions should complement and supplement other initiatives to achieve equity and inclusivity. Names and symbols matter to our campus and community, but the addition, removal, or contextualization of names and images are neither the sole nor the primary ways by which the Law School and University fulfill its aspirations to become more fully inclusive to people from all backgrounds.⁵
- History is the past that affects our present and future realities. A primary reason we study history is for a moral purpose: to learn from past behaviors and actions – good and bad – with the hope of adjusting future behaviors to reflect the positive actions and avoid past moral mistakes. History often involves painful recollections of our past, but we are shaped and influenced by that history and must allow ourselves to learn from it. We must take care in the process of discernment related to contested names not to obfuscate our history and thus avoid challenging conversations that could result in a healing dialogue in our communities.⁶
- Naming articulates the Law School, University, and community values, identifying a person whom the Law School and University have chosen to honor for their accomplishments, recognizing that few, if any, individuals can meet a standard of perfection.⁷

³ AMERICAN HISTORICAL ASSOCIATION, AHA LETTER EXPRESSING SUPPORT FOR THE NEW ORLEANS CITY COUNCIL STREET RENAMING COMMISSION (Mar. 2021), [https://www.historians.org/news-and-advocacy/aha-advocacy/aha-letter-expressing-support-for-the-new-orleans-city-council-street-renaming-commission-\(march-2021\)](https://www.historians.org/news-and-advocacy/aha-advocacy/aha-letter-expressing-support-for-the-new-orleans-city-council-street-renaming-commission-(march-2021)).

⁴ AMERICAN HISTORICAL ASSOCIATION, AHA STATEMENT ON CONFEDERATE MONUMENTS (Aug. 2017), <https://www.historians.org/news-and-advocacy/aha-advocacy/aha-statement-on-confederate-monuments>.

⁵ PRINCETON UNIVERSITY COMMITTEE ON NAMING, PRINCIPLES TO GOVERN RENAMING AND CHANGES TO CAMPUS ICONOGRAPHY, <https://namingcommittee.princeton.edu/principles>.

⁶ RHODES COLLEGE, PRINCIPLES FOR THE PROCESS OF DISCERNMENT RELATED TO CONTESTED NAMES (Apr. 13, 2018), <https://www.rhodes.edu/about-rhodes/palmer-hall-discernment-committee/principles-process-discernment-related-contested>.

⁷ AMERICAN HISTORICAL ASSOCIATION, SCHOOLS, HISTORY, AND THE CHALLENGES OF COMMEMORATION (Feb. 2021), [https://www.historians.org/news-and-advocacy/aha-advocacy/schools-history-and-the-challenges-of-commemoration-\(february-2021\)](https://www.historians.org/news-and-advocacy/aha-advocacy/schools-history-and-the-challenges-of-commemoration-(february-2021)).

- Many of our historical figures after whom institutions are named led contradictory lives that serve as a constant reminder of our nation’s contradictions. Many of their stories hold multiple truths—that they did truly great things and they did reprehensible things that we should unequivocally condemn and never excuse.

Chief Justice Marshall’s Complex Legacy

- We should encourage a robust debate about the way Chief Justice Marshall should or should not be memorialized. ⁸
- When considering the naming or renaming after Chief Justice Marshall, we should examine his principal legacy in light of multiple criteria. These should include his actions during his lifetime, and, most significantly, his principal legacy in the present. His history and legacy should be appropriately chronicled and explained. ⁹
- Allegations of Chief Justice Marshall’s relationship with slavery should be supported by documentary evidence that demonstrates both the extent and the intentionality of his actions. ¹⁰
- The removal of Chief Justice Marshall’s name should not fail to acknowledge the historical complexity or holistic contributions of Chief Justice Marshall. ¹¹
- Regardless of the decision whether to change the name, the law school and the university should actively acknowledge Chief Justice John Marshall’s association with slavery and the harmful impact on marginalized communities.

Wide Input

- In considering a name change, we should incorporate wide input. We should consider the perspectives of students, staff, faculty, alumni throughout the world, the broader CSU community, and the Greater Cleveland and Northeast Ohio legal and general communities.
- We have a special responsibility to listen to and respect Law School and University community members who are particularly affected by and sensitive to Chief Justice Marshall’s association with slavery.

⁸ *Id.*

⁹ WILLIAM & MARY, FINAL REPORT OF THE WORKING GROUP ON PRINCIPLES OF NAMING AND RENAMING (Feb. 2021), https://www.wm.edu/about/history/reconciliation/naming-renaming/_documents/naming-renaming-final-report.pdf.

¹⁰ UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL, BOARD OF TRUSTEES’ POLICY FOR THE CONSIDERATION OF THE REMOVAL OF NAMES ON UNIVERSITY BUILDINGS AND PUBLIC SPACES (July 16, 2020), <https://bot.unc.edu/wp-content/uploads/sites/160/2020/07/Final-Policy-Adopted-7.16.2020.pdf>.

¹¹ *Id.*

- We also have a responsibility to listen to and respect those graduates for whom the name of the Law School has meant access to careers and life-long accomplishments.

Our Mission, Vision, and Values

- We should be guided by our proud history, our guiding values, our Law School’s present mission Learn Law, Live Justice, and the present values and mission of Cleveland State University.
- Decisions about naming and renaming must be made with due regard for the Law School’s and University’s educational mission and core values, including its commitments to teaching, quality research, truth-seeking, and inclusivity.¹²
- The name of the Law School should foster an inclusive space for all students that affirms and respects their identity. Our campus naming practices should indicate our goal that all students, faculty, and staff be welcomed and their presence valued on our campus especially those groups of people who may feel isolated or alienated as a result of their underrepresentation on our campus.¹³

Contextual Considerations

- Consideration should be given to whether the namesake of the law school has any ties, connection, or relationship to the law school, the university, its graduates, and the community.¹⁴
- Consideration should be given to whether the namesake undertook specific acts that mitigated, or led to the mitigation, of the historical harms done.
- Consideration should be given to whether the namesake’s actions/behaviors had the effect of, oppressing groups of people based on their race, ethnicity, gender or sexual orientation, and the oppressive actions, behaviors or viewpoints in question are inextricably connected to the namesake’s career, public persona, or life as a whole.¹⁵

¹² PRINCETON UNIVERSITY COMMITTEE ON NAMING, PRINCIPLES TO GOVERN RENAMING AND CHANGES TO CAMPUS ICONOGRAPHY, <https://namingcommittee.princeton.edu/principles>.

¹³ RHODES COLLEGE, PRINCIPLES FOR THE PROCESS OF DISCERNMENT RELATED TO CONTESTED NAMES (April 13, 2018), <https://www.rhodes.edu/about-rhodes/palmer-hall-discernment-committee/principles-process-discernment-related-contested>.

¹⁴ GEORGE WASHINGTON UNIVERSITY NAMING TASK FORCE, GUIDING PRINCIPLES FOR RENAMING CONSIDERATIONS, <https://trustees.gwu.edu/sites/g/files/zaxdzs2786/f/downloads/Naming%20Task%20Force%20Recommendations%20Final.pdf>

¹⁵ UNIVERSITY OF SOUTH CAROLINA PRESIDENTIAL COMMISSION ON UNIVERSITY HISTORY, CRITERIA FOR REMOVING NAMES, https://sc.edu/about/our_history/university_history/presidential_commission/commission_reports/final_report/appendices/appendix-10/index.php

- Though other aspects of the namesake’s life and work are noteworthy to the Law School or the greater community, consideration should be given to whether the namesake exhibited offensive behavior or viewpoints outside of their career or public persona.¹⁶
- Consideration should be given to whether honoring the namesake significantly contributes to an environment that excludes some members of the law school community from opportunities to learn, thrive, and succeed and contradicts our mission of diversity, equity, and inclusion.¹⁷
- Consideration should be given to whether removal of the name would impede viewpoint diversity or fail to acknowledge the historical complexity or holistic contributions of the individual to the Law School or the public.¹⁸
- The case for renaming is strengthened where a name undermines the ability of a significant number of students, faculty, or staff of a particular gender, sexual orientation, race, religion, national origin or other protected characteristic, to engage in or belong to the university community.¹⁹
- The case for renaming is considerably more compelling where the conduct in question became widely known after the initial naming decision, or where the university has not previously examined the issue with reasonable rigor, as determined by members of the special committee. The case for renaming is less compelling, and names more appropriately left to stand, where the university was aware of the namesake’s behavior and, based on reasonable diligence and research, nonetheless decided to confer the honor; or where the university has previously examined and rejected another request to change the name. While decisions following previous reconsideration of a name should be shown some deference, such decisions should receive less deferential treatment where decision-makers ignored, or were not aware of, history of the behavior in question.²⁰

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ GEORGE WASHINGTON UNIVERSITY NAMING TASK FORCE, GUIDING PRINCIPLES FOR RENAMING CONSIDERATIONS, <https://trustees.gwu.edu/sites/g/files/zaxdzs2786/f/downloads/Naming%20Task%20Force%20Recommendations%20Final.pdf>

²⁰ *Id.*

II. Why We Should Keep our Name

Professor David F. Forte and Professor Stephen R. Lazarus

A. Executive Summary

There are different reasons for naming an institution in the first instance, in contrast to reasons to decide on retaining the name of an institution. To decide upon a name is to consider a number of factors, such as whether the name bearer is worthy of being recognized, whether the name bearer will have a relevance to the institution and its mission, and whether the name bearer will be a cognizable “brand” for the institution. Once an institution is named, different considerations apply in deciding whether to retain the name, most particularly what the name or brand has become to the community. John Marshall was worthy of being the name of our predecessor law school in 1916. He is deserving of his continued association with the law school by what “Marshall” has come to mean to generations of students and graduates, as well as to the larger community.

In 1916, with the founding of John Marshall Law School, “Marshall” became an honored name in Cleveland. The Law School opened its doors to women and men, minorities, immigrants, and the children of immigrants. Since 1901, “John Marshall Day” was celebrated throughout the United States. In 1916, the year of the founding of the Law School, Albert Beveridge’s magisterial biography of Marshall appeared, giving even greater luster to the name of the great Chief Justice.

John Marshall fought for the independence of the country in the Revolution, fought for the Constitution in the Virginia ratifying Convention, fought for the emancipation of slaves as lawyer, fought for peace as Secretary of State, and fought for the independence of the Supreme Court as Chief Justice. He extended diplomatic relationship of the United States to what would become the first black republic in world history. He preserved the power of the Court to examine the constitutionality of Congressional and Presidential Acts. He grounded the government of the country in the people, not the states, and blunted the southern drive towards secession. He affirmed Congress’s legislative power over commerce and through the application of the Necessary and Proper Clause. He protected Indian tribes against the states, and individuals and corporations against state control, and he limited the unilateral power of the presidency.

In Cleveland, the name “Marshall” became synonymous with opportunity. Many of the graduates of John Marshall Law School became prominent lawyers, business leaders, judges, and politicians. This included minorities and women. “I graduated from Marshall,” was the proud boast of thousands. “Marshall” became their law school for life.

Ensnared in the economy and culture of the South, John Marshall was a slave owner. But the charge that he “bought and sold slaves” all his life like a slave dealer are simply not true, as a renowned historian has shown. Moreover, in the handful of slave cases he decided as chief justice, he did not show bias against the slave. Rather, straightforward

unbiased legal analysis led to the results that he arrived at. In any event, against the fewer than eight instances where his actions resulted in a person remaining in slavery, there were hundreds of slaves he was able to emancipate by his legal acumen. Moreover, the legal principles he concretized in our law helped to ground Lincoln's defense of the Union during the Civil War, resulting in the expungement of slavery. The independence of the Court that Marshall brought about and the institution of judicial review that he preserved gave later Supreme Courts the power to overturn segregation and affirm equal rights for African Americans. Though he personally owned many slaves, an action that cannot be defended, John Marshall's life led to freedom and liberty under our laws for millions of our citizens.

Particularly for those in Cleveland who achieved so much through an institution bearing his name, John Marshall should remain an honored name among us. Moreover, in our quest to bring justice to issues of racial equality, it would be ironic to remove the name of a man who provided the means today for achieving that racial justice. We should not distract ourselves from this quest by removing the Marshall brand, which has meant so much to the advancement of minorities as well as many from our ethnic communities.

There are many good reasons to honor a person after death, but the greatest is the esteem we have for the gifts that he or she left for posterity, for us.

B. The Name of John Marshall

In 1916, John Marshall became an honored "brand" in Cleveland legal education. In that year, David C. Meck, Sr., Alfred Benesch, and Frank Cullitan founded the John Marshall Law School, open to men and women, those who wished a career in the law or business, and offering day and evening classes. Adopting the name of John Marshall was a wise marketing choice. In 1916, to great acclaim, the first two volumes of Albert Beveridge's *Life of John Marshall* were published. Beginning in 1901, "John Marshall Day" was observed nationally, and he was universally recognized as the "great Chief Justice." The new law school was raised to compete with the Cleveland Law School, which had been founded in 1897. The new law school had an ambitious plan. It would institute, instead of lectures, the "case method" of instruction, which was becoming more popular nationally among law schools. It would be a three-year course of study, in contrast with Cleveland Law School's four-year plan. It would have day classes, while Cleveland Law School's classes were solely in the evening. And it would ally with a university, like many established nationally known law schools. These were the new law school's ambitions, and they sought to ally the law school with others nationally. "John Marshall" was the name chosen because of his *national* notoriety, and likely also because he represented how the law grew through the study of his *cases*."

C. The Great Chief Justice

The first “John Marshall Day,” February 4, 1901, on the centenary of his accession to the Chief Justiceship, was observed by exercises held in the hall of the House of Representatives, and attended by the President, the members of the Cabinet, the Justices of the Supreme and District courts, the Senate and House of Representatives, and the members of the Bar of the District of Columbia. Even today, with doubts raised about Marshall because of his ownership of slaves, the brand of the great Chief Justice remains. And as we learn more about him, actually spurred on by viewing the flaws in his life, the more we have come even more to understand and acknowledge the gifts that he left to us, our country, our Constitution, and our law.

The late Michael Uhlmann, astute scholar of the American founding, counts Marshall among the “big four” of the Founding, alongside Washington, Jefferson, and Hamilton. Marshall’s modest manner, brilliant mind, commodious disposition, willingness to sacrifice, and perseverance make what he gave to the country an incomparable gift.

John Marshall was born and raised on the Virginia frontier in a two-room log cabin. Born in 1755, he lived until he was nearly 80. Like Benjamin Franklin and Abraham Lincoln, John Marshall was self-taught, having little formal schooling. He read constantly, being provided by his father with many books, including Blackstone’s Commentaries. In the Revolution, he fought in a number of battles, including the battles of Brandywine and Germantown, where he was wounded. At Valley Forge, George Washington took notice of him and appointed Marshall chief legal officer. In 1780, on furlough, he enrolled in the College of William and Mary and studied law under George Wythe, and then soon passed the bar.

In 1788, he was elected to the Virginia Ratifying Convention, where along with James Madison, he is credited with having blunted Patrick Henry’s arguments against ratifying the Constitution. Meanwhile, John Marshall’s law practiced blossomed. He had a number of high-profile cases, including one before the Supreme Court, and others in favor of slaves seeking their freedom and a testator seeking to emancipate his slaves.

Specifically, Marshall obtained emancipation for the children of Indian mothers and slave fathers, on the basis that descent in Indian law was matrilineal. In *Pleasants v. Pleasants*, Marshall argued in favor of a bequest that emancipated slaves but could only take effect at a time after Virginia’s law against manumission had been repealed. At that point, the slaves awaiting manumission had increased to hundreds, and the descendants of the testator did not want to give up the slaves. The common-law rule against perpetuities was argued to be a barrier to the slaves’ freedom. Before the Virginia Court of Appeals, Marshall argued that the rule against perpetuities applied only to land and not to something as fundamental as the freedom of a person. He prevailed. Marshall won the largest court-ordered manumission decree in the history of the United States. Over 400 slaves were freed.

Marshall also intervened successfully to seek the pardon of Angelica Barnett, a free woman of color. Her home was invaded by a slavecatcher, who threatened Barnett and

charged at her, clearly intending violence. In the presence of her family, Barnett defended herself with an ax, inflicting mortal wounds on her assailant. She was tried for murder, convicted, and sentenced to hang. While imprisoned in a cell with a man, she was raped and became pregnant. The governor temporarily stayed the execution, and Marshall and others submitted a petition for clemency. The petition emphasized that Barnett's home was invaded and her life threatened, justifying self-defense, and that Virginia's law preventing blacks from testifying deprived the jurors of dispositive eyewitness accounts. The governor granted a full pardon.

Shortly after John Adams became President, he sought to reach an agreement with France, whose navy had been capturing American merchant ships. Adams dispatched a three-man commission, one of whom was John Marshall. Marshall's perseverance in rejecting French demands for bribes and a loan gained him prestige as a strong diplomat. With the French still preying on American shipping, the two countries began a naval war. Meanwhile George Washington, in retirement, asked Marshall to run for Congress in a hard to win district, which he captured in 1799 with the endorsement of his former adversary, Patrick Henry.

In June 1800, after American naval successes against the French, President Adams asked Marshall to be Secretary of State and lead a second attempt at a reconciliation with France. Marshall accepted and directed negotiations to a successful conclusion. He also extended the Adams' administration's relationship with Toussaint Louverture, the former slave who was leading what would soon be the first black republic in San Domingue (later Haiti). Marshall pressed forward on relations with Louverture despite objections from the South and from Thomas Jefferson's Republican Party. After 1801, the Jefferson administration abruptly put a halt to Adams' and Marshall's policy.

Meanwhile, in 1800, Martha Washington asked Marshall to write a biography of her husband, George, who had died in 1799. Marshall eventually wrote the biography in five volumes, completed in 1805. It has long been regarded as an admirable work of history.

In February of 1801, John Adams appointed Marshall Chief Justice of the United States. Adams later wrote, "My gift of John Marshall to the people of the United States was the proudest act of my life." Marshall's work at preserving the place of the Supreme Court in the separation of powers and in buttressing the union against state assertions of sovereign dominance became part of what has been his invaluable legacy to his country and to all future generations.

Here are some of the familiar highlights.

- In *Marbury v. Madison*, he preserved the institution of judicial review and the independence of the Supreme Court from the Jefferson administration's attempt to reduce the court to impotence and irrelevancy in our constitutional system. Jefferson would have appointed Spencer Roane, who would have opposed judicial review as Chief Justice. Further, Marshall initiated the practice of a unitary "opinion of the Court," giving the Court a more authoritative stance in relation to Congress and the President. He wore a plain black robe, in contrast to

the previous practice of ermine and scarlet that justices wore in imitation of British judges. The Court gained prestige not from pomp, but by the power of Marshall's analytical reasoning.

- Marshall's defense of judicial review has directly influenced many other nations to include the principle in their constitutions.
- In *McCulloch v. Maryland*, he affirmed the flexibility of Congressional legislation under the Necessary and Proper Clause. At the same time, he defeated the attempt by Maryland to have the states be recognized as the superior sovereignty in the union. "The Government of the Union," Marshall wrote in 1819, "is emphatically and truly, a Government of the people. In form and in substance, it emanates from them. Its powers are granted by them, and are to be exercised directly on them, and for their benefit." Spencer Roane, following on from the position of Thomas Jefferson, would have held that the Constitution was a creation of a compact of the states. Without Marshall's decision and the defense of the Constitution as emanating from the people as opposed to state governments, the South's attempt at secession would have had constitutional warrant, Abraham Lincoln's views notwithstanding. The Civil War, and the expungement of slavery, might well have had a different outcome.
- In *Gibbons v. Ogden*, he defined the extent of Congress' power to regulate truly commercial activities that "concerned more states than one."
- In *Fletcher v. Peck*, *Dartmouth College v. Woodruff*, and *Sturges v. Crowninshield*, he prevented the states from aggrandizing themselves by holding that they could not impair contracts to which they were a party.
- In *Cohens v. Virginia*, following the Court's opinion in *Martin v. Hunter's Lessee*, he confirmed the Supreme Court's power to review state laws on federal questions. On the other hand, in *Barron v. Baltimore*, he affirmed the right of the states to legislate for the welfare and safety of their own people.
- While on Circuit, John Marshall presided over the trial of Aaron Burr for treason. He narrowly interpreted the constitutional requirements for a conviction of treason, lessening the opportunities for the government to target political opponents. Moreover, his insistence that President Jefferson honor a subpoena for relevant documents led directly to the Supreme Court's decision in *United States v. Nixon* and the resignation of Richard Nixon from the Presidency.
- When Marshall died in 1835, a Baltimore newspaper, the *Nile's Register*, which had long attacked Marshall for his decisions, declared, "Next to Washington, only, did he possess the reverence and homage of the heart of the American people."

D. Opportunity

With adoption of John Marshall as the eponym of the new John Marshall Law School in 1916, "Marshall" took on a new branding: *opportunity*. "I graduated from Marshall,"

became the proud claim of hundreds of lawyers for over a century, even after John Marshall merged with Cleveland Law School in 1946. The new law school of opportunity had a dynamic history from the time of its founding. For a few years, it allied with Ohio Northern University, and then in 1923, it offered an LL.M. degree. It fielded its own basketball team, which engaged in intercollegiate play. Students flocked to enroll in Marshall for the new opportunities that it offered—457 in 1922 and 500 in 1925.

John Marshall Law School became the conduit for women, minorities, and first generation college graduates to enter the legal profession, the judiciary, major law firms, and politics. Many of John Marshall's illustrious graduates have been recognized in Cleveland-Marshall's Hall of Fame. For example,

- Charles V. Carr, class of 1926, worked for greater employment opportunities for African-Americans. He was a member of the Cleveland City Council for 13 years;
- Frank Lausche, Judge of the Cleveland Municipal; Court, Common Pleas Court, Mayor of Cleveland, and United States Senator;
- Grace Doering McCord, LL.M., first female Professor of Law in Ohio, served on the faculty of Cleveland Law School;
- Lawrence O. Payne, class of 1923, first African-American assistant city prosecutor of Cleveland, co-founder of the Call & Post newspaper;
- Jane Edna Hunter, class of 1940, was a sharecropper's daughter and founded the predecessor of the Phyllis Wheatley Association.

The John Marshall Law School was also a conduit for our citizens to become judges, including Joseph Lo Presti, Daniel J. Wasserman, Manuel M. Rocker, Joseph Stearns, Ray C. Miller, T.M. Williams, John Maxwell, and many others.

After John Marshall Law School merged with Cleveland Law School in 1946, "Marshall" continued to be the opportunity brand for thousands to make their lives, their careers, and their contributions. "I am a graduate of Marshall" remained a proud boast. "Marshall" had become their law school for life.

E. Slaveowner

In 2018, a new brand was affixed to the name of John Marshall: John Marshall, slaveowner. In a series of lectures turned into a monograph, Paul Finkelman lumped Marshall in with Roger B. Taney (and Joseph Story, as well) and asserted that John Marshall was a major slaveowner, that he actively "bought and sold" slaves, and that he took the side of the slaveowner in the cases that he decided.

Unhappily, Finkelman fails to note, as an historian is bound to, facts that may be opposed to his thesis. Let us describe his position on Marshall and what the historical and legal facts reveal.

- 1) According to Finkelman, Marshall “aggressively” bought and sold slaves all his life. The record does not support Finkelman. Renowned historian Charles Hobson has shown that, at best, the assertion is an unjustified exaggeration. The last recorded purchase of a slave by Marshall was in the 1790s well before he developed his “farm” at Chickahominy. Finkelman, contradicting himself, does admit that Marshall only “occasionally” sold “some” slaves.
- 2) Finkelman also suggests that Marshall bought and sold slaves as a means of income. Finkelman knows that Marshall (and his brother) bought a huge tract of land in the 1790s in the upper neck of Virginia, and that it provided him alone with 50,000 acres of “prime Virginia land,” according to one biographer. Sales from that land investment gave Marshall more than sufficient income in addition to his rather large salary (for that time) as the Chief Justice, and the royalties he received from his multivolume *Life of Washington*. Also, Marshall did not have a large estate as did Washington, Jefferson, and Madison. He had a modest home in Richmond, and although he was a generous host, he never put on lavish entertainments. All indications are that his “farm” at Chickahominy was also modest. Like Washington, Marshall’s slaveholding numbers towards the end of his life came from natural increase, which shows that, like Washington, he kept his slaves and did not willy-nilly sell them, nor bought and sold them for profit.
- 3) A responsible historian brings to light facts that differ from his thesis even if has to distinguish them. Finkelman was aware of the *Pleasants v. Pleasants* case in which Marshall persuaded the court to free over 400 slaves. Finkelman never mentions that case in his attack on Marshall.
- 4) According to Finkelman, Marshall always took the side of the slaveowner in his seven Supreme Court opinions when he easily could have decided otherwise. In a number of reported cases (not all), Finkelman’s analysis is strikingly superficial and, from a straightforward reading of the cases, one finds that Marshall’s opinions were decidedly stronger than Finkelman alleges. For the most part, Finkelman omits the times when Marshall assisted slaves in their quest for freedom. In fact, Marshall’s legal actions emancipated hundreds of slaves, even while he sat as Chief Justice.
- 5) Marshall was a major slaveowner and, in his later years, an uneven supporter of emancipation. This last assertion is true and Finkelman appropriately calls to account historians of the last century who failed to look into the documentary records that attest to Marshall’s holdings of slaves. Beyond that, Finkelman’s charges hold little water.

The fact that great persons of renown lived in societies that tolerated slavery (which means every civilization on every continent on earth) does not mean that we today can relieve them of participating in a moral wrong, but it does mean that we should understand their historical and social situation, meriting praise and honor for the good that they did accomplish.

In America, the era of voluntary emancipation essentially passed by the end of the 1790s. The cotton gin, slave rebellions, a growing sense that the South possessed a separate culture, took hold. Marshall, like many others, such as James Madison, became ensconced in the economic and social structure of the South, which only grew more particularized as the decades passed and the dependency on slave labor became ever more pronounced. In addition, although Marshall had hoped his sons would aspire to one of the professions, they became landowners—southern landowners—as equally dependent on slave labor as their neighbors. A paternal desire to assist his sons also impelled Marshall to hold to and gift slaves to them.

F. Honored

In deciding upon the honors due to a person like John Marshall, we are justified in gauging the whole man, including his flaws, his accomplishments, and the gifts he bequeathed to the generations who came after.

- John Marshall fought for the independence of the country in the Revolution, fought for the Constitution in the Virginia ratifying Convention, fought for the emancipation of slaves as lawyer, fought for peace as Secretary of State, and fought for the independence of the Supreme Court as Chief Justice.
- He was a slaveowner, ensconced in the economic and familial structure of the antebellum South.
- He was a Revolutionary veteran, wounded in the service for his country.
- He effectively assisted the victory, in a very close contest, of the Constitution in the Virginia ratifying Convention.
- He was a consummate diplomat, effected peace with France, persuaded the great powers to recognize America's non-alignment, and, in the face of foreign and domestic opposition, extended the United States' diplomatic relations with what would become the first black republic, born of a slave rebellion.
- In 1801, he and his political adversary, Thomas Jefferson, worked to bring about the first peaceful transition of power from one party to another. Later, he worked to limit the unconstitutional pretensions of the same Thomas Jefferson.
- As an advocate, he obtained liberty for mixed offspring of Indian/slave unions.
- He assisted in obtaining the pardon of a free woman of color, brutally victimized.
- He obtained the largest court-ordered emancipation of slaves in United States history—more slaves than he ever owned in his entire life.
- Without his resolute defense of the union as a creation of the people and not of the states, secession would have been a logical outcome, and if brought about, would have resulted in the failure to expunge slavery across the land.

- Without his affirmation of judicial review, and the institutional prestige of the Supreme Court that he brought about, *Brown v. Board of Education* almost certainly would not have happened.

Marshall has been the name of a law school that thousands of students have proudly owned as the source of their advancement, their furtherance of justice, and their status as full citizens. In this debate, we have discovered wrongs, and we have discovered ever more numerous great accomplishments and gifts of that man. With honest acknowledgement that the great are capable of ungreat things, we can go forward with honoring Marshall in our law school name.

G. Justice

Our country is a great one. We can all take pride in what we as a nation have accomplished. We are fortunate to live here. But some of us are more fortunate than others, because our greatness cannot be separated from our flaws. Our original sin was slavery and that sin, followed by Jim Crow segregation and Ku Klux Klan terror, has lasting effects today in racial inequality. Those effects prevent us from achieving the equality that we promised ourselves in the Declaration of Independence. Changing the name of our law school does not work toward that goal, and in fact is counterproductive to it, for two reasons:

First, changing our name will give us the feeling that we have accomplished something concrete that works to counter our racial history and therefore our current inequality. That feeling will lessen our concentration on the truly important tasks that we face: voting rights, police reform, bail reform, education reform, Medicare expansion, minimum wage, right to organize, affirmative action. Those areas are where our focus should be.

Second, focusing on the name change provides rhetorical cover for the forces that resist important reform and will always resist it. Rather than claim there is no need to change things (because that argument is so obviously weak) they will liken any significant reform to the name change so that they can lump all reform into what they will call “woke” attitude and “cancel culture,” hoping that by doing that they can cast aspersion on significant reform and therefore prevent it.

We have been considering a name change because John Marshall, in addition to providing the judicial review that allows the judiciary to protect our rights to liberty and equality, was also a slave holder. He was part of our original sin. So was George Washington, without whom we would not have won our independence. So was Thomas Jefferson, who wrote our Declaration. So was James Madison, who wrote our Constitution. Many of the founders of our freedom, even those who were not slaveholders, were willing to acquiesce in slavery; Alexander Hamilton, Benjamin Franklin, John Adams. Even Abraham Lincoln was willing to guarantee southern states the right to maintain slavery, in perpetuity, if they did not leave the Union. When they did secede it was Lincoln’s leadership that preserved the Union and led to the end of

slavery in 1865 rather than having it last, in all likelihood, until well into the 20th century. But the names of those individuals should not be scratched out. To the extent we remember them and rely on the gifts they left us, we enable ourselves to recognize the evil in their acts, in their lives. Erasing their names makes it easier for us to see slavery as something that once existed but is no longer a problem. There are many people who already think that. We should not encourage them.

III. Why We Should Change our Name

Judge Ronald Adrine '73, Judge Patricia A. Blackmon '75, Terry Billups '05

A. Executive Summary

CSU Cleveland-Marshall College of Law should remove all references to Chief Justice John Marshall from its name based on Marshall's participation and involvement in the institution of slavery and his pro-slavery Supreme Court jurisprudence. John Marshall was a prolific slaveholder who enslaved hundreds of human beings during his lifetime and actively participated in the buying and selling of Black men, women, and children. He did so despite acknowledging that slavery was immoral and wrong, and he did so the entire 34 years he served as chief justice of the Supreme Court. Marshall became extremely wealthy accumulating slaves and bartering in free Black labor, and he consistently upheld the institution of slavery from the bench to protect his vast wealth.

When institutions commemorate and honor dead slaveholders and confederate soldiers it causes an undeniable toll on the psyche of Black men, women, and children and can result in emotional and psychological harm to Black students, faculty, staff, alumni, and other people of color in the local community who must encounter these symbols of racism, oppression, and slavery on a daily basis. Thus, why would we, as a public institution, knowing all that we now know, continue to honor and commemorate a man who enslaved hundreds of human beings, who considered and treated Black people as inferior and nothing more than chattel property, and who went out of his way on the Supreme Court to protect, defend, and uphold the institution of slavery? There is no good reason why.

For one, there is no evidence of any connection or ties between John Marshall and Cleveland's legal community. He was not an alumnus of any of the Cleveland law schools that bore his name. No evidence appears that any relative or descendant of Marshall's had any role in his name being affixed to any of the Cleveland law schools. There is no evidence of any monetary donations, contributions, grants or bequests, significant or otherwise, to the predecessor legal scholastic institutions or to Cleveland State University that were premised on either naming, retaining or maintaining the association of John Marshall's name with any of the colleges. In fact, CSU did not name the law school after John Marshall. It inherited the "Marshall" name after the John Marshall School of Law merged with the Cleveland Law School in 1946 to form the Cleveland-Marshall College of Law. However, the merged law school did not become affiliated with CSU until 1969 at which time the law school retained its Cleveland-Marshall name.

Second of all, it is widely agreed and essential that the namesake of your institution should accurately represent and reflect the present-day mission and values of your institution. The mission of C|M|LAW is to *Learn Law, Live Justice*, and its stated values include a strong commitment to diversity, equity, inclusion, and antiracism. However, John Marshall's blatantly racist and pro-slavery viewpoints and values are diametrically at odds with the current values of our law school and the broader society in general.

The bottom line is that Marshall was on the wrong side of history, and if this law school continues to honor and commemorate the legacy of a slaveholder, we will soon find ourselves on the wrong side of history as well.

B. John Marshall was a prolific slaveholder who made a fortune buying and selling other human beings and who used his position on the Supreme Court to protect his vast wealth by denying freedom to those who he enslaved

The fact that Chief Justice John Marshall, the namesake of CSU Cleveland-Marshall College of Law, was a slaveholder has been mostly overlooked by historians in the past. Most historians either were unaware or purposely and conveniently ignored the fact that John Marshall was a prolific slaveholder who enslaved hundreds of human beings during his lifetime. Only a few historians even acknowledged that John Marshall was a slaveholder and, those who did, incorrectly claimed that Marshall enslaved no more than a “few” so-called “domestic servants” at his private residence in Virginia. It was not until author and distinguished historian, Professor Paul Finkelman,²¹ discovered the true extent of Marshall’s slaveholdings that we began to learn who Marshall truly was as a jurist and a person. In his latest book, Professor Finkelman reveals through his extensive research that Marshall not only enslaved hundreds of human beings, but he actively participated in the buying and selling of Black men, women, and children.²² As a result of Professor Finkelman’s work, members of the C|M|LAW Law community and Greater Cleveland area petitioned CSU and the Law School to remove any reference to John Marshall from the Law School’s name because of his extensive slaveholdings and his pro-slavery jurisprudence while serving as the Chief Justice of the U.S. Supreme Court.²³

Up until the time of the petition, most people associated with CSU and the Law School, including its faculty, staff, students, alumni, and other members of the community, had no clue about John Marshall’s involvement in slavery in either his private or public life. In fact, many members of the CSU and Law School community had no idea that the Law School was even named after John Marshall – the Great Chief Justice – at least, not

²¹ Paul Finkelman is President of Gratz College. He received his M.A. and Ph.D. in history from the University of Chicago. He was later a Fellow in Law and Humanities at Harvard Law School, where he also taught one course. Before coming to Gratz, he taught in history departments and law schools at a number of universities including Duke Law School, LSU Law Center, Washington University in St. Louis, and the University of Texas. Most importantly, he held the Baker and Hostetler Chair at Cleveland-Marshall Law School. Prof. Finkelman is the author of more than 200 scholarly articles and the author or editor of more than fifty books. In 2018, Harvard University Press published his book *Supreme Injustice: Slavery in the Nation’s Highest Court*. The U.S. Supreme Court has cited him in 5 decisions involving civil rights, affirmative action, and the bill of rights.

²² See Paul Finkelman, *Supreme Injustice: Slavery in the Nation’s Highest Court* (2018).

²³ The petition can be found at the following link: <http://renamejohnmarshall.com/> and has been signed by more than 1,500 people.

until recently. Now, it is fair to say, most people associated with the Law School are clearly aware that the school is named after Chief Justice John Marshall and that Marshall was a slaveholder.

So, what do we know about Chief Justice John Marshall? We know that John Marshall was the fourth and longest serving chief justice in our nation's history (serving 34 years from 1801-1835) and is generally considered the greatest chief justice to serve on the High Court. He helped to develop long-standing doctrines of constitutional law that are still followed today and is considered the father of judicial review. Marshall authored some of the most seminal and well-known cases in the history of the Supreme Court, many of which are still cited and relied upon throughout our federal courts today.

But we also now know that Chief Justice John Marshall was a prolific slaveholder who was “buying and selling human beings his whole life” and was “still doing it from his position in the center chair of the Supreme Court.”²⁴ Ultimately, Marshall enslaved more than 200 people during his lifetime and “would have been in the top 10%, if not higher, of all Virginia slaveowners.”²⁵ Marshall discovered early on in life that “the way to get rich in America [was] to buy human beings and, when you're short of cash, to sell human beings.”²⁶ In fact, “40 slaves would make you a millionaire many times over in those days. It's an enormous amount of wealth,” exclaimed Professor Finkelman.²⁷ Thus, “John Marshall, while living modestly, is an exceedingly wealthy man” during his lifetime.²⁸

As a result of Marshall's conflicting interests and vast personal investments in the labor and subjugation of Black bodies, “it makes him sympathetic to the slaveowner, not the slave.”²⁹ To avoid such conflicts of interest on the bench, Alexander Hamilton warned all jurists that: “No man ought certainly to be a judge in his own cause, or in any cause in respect to which he has the least interest or bias.”³⁰ Nevertheless, Chief Justice John Marshall ignored Hamilton's warning, despite the obvious personal and financial conflicts of interest he had in deciding cases involving the institution of slavery, for which he heavily profited. Rather than recuse himself from such cases, Marshall participated in deciding roughly fifty cases involving slavery during his tenure as Chief Justice of the Supreme Court.³¹ Thus, when Marshall is faced with deciding the fate of

²⁴ JOHN MARSHALL: THE MAN WHO MADE THE SUPREME COURT (Documentary Film Released Aug. 1, 2020) (Remarks by Historian Prof. Paul Finkelman) (<https://vimeo.com/440507592>)

²⁵ *Id.*

²⁶ C|M|LAW Forum on The Legacy of Chief Justice John Marshall (April 27, 2021) (Remarks by Expert Panelist Prof. Paul Finkelman) (<https://guides.law.csuohio.edu/c.php?g=1157047&p=8445447>)

²⁷ JOHN MARSHALL: THE MAN WHO MADE THE SUPREME COURT (Finkelman Remarks), *supra*

²⁸ C|M|LAW Forum on The Legacy of Chief Justice John Marshall (Finkelman Remarks), *supra*

²⁹ JOHN MARSHALL: THE MAN WHO MADE THE SUPREME COURT (Finkelman Remarks), *supra*

³⁰ The Federalist No. 80 (Alexander Hamilton)

³¹ Finkelman, *supra* at 52

slaves who petitioned for their freedom in the cases in which he authored the opinion of the Supreme Court, “the slaves lost in every one.”³² Astonishingly, even in cases in which all-white southern juries found in favor of the slave, Marshall overturned the decisions and ruled in favor of the slaveholder.³³

Unlike judges today, who generally interpret the law based on previous precedent, during Marshall’s reign as the 4th and longest serving chief justice, he “doesn’t have to work his way through previous precedent as modern courts do; he gets to make the precedent” and create new law.³⁴ And although “Marshall extended judicial authority in a lot of cases” and was considered “a genius at extending judicial authority,” he refused to extend judicial authority on behalf of humanity and those who he and other slaveholders like himself kept in bondage.³⁵ Thus, when deciding legal issues concerning slavery, Marshall was not constrained by the law or previous court precedent. Instead, he simply put his personal and financial interests first and chose to uphold the stench of slavery, despite declaring it “contrary to the law of nature.”

C. Present-day commemorations to dead slaveholders and confederate soldiers cause emotional and psychological harm to the Black community and Americans in general.

For far too long, when talking about slavery and its devastating effects, some in society have insisted that the rest of us simply “get over it” and “move on” to other so-called “more important things.” However, the ill-begotten gains and sins of slavery from two centuries ago and its Jim Crow remnants still have a major impact on our society and the lives of Black people today. You simply cannot divorce one from the other.

As Dr. Ashley Woodson³⁶ discussed during the April 2021 forum on “Facing and Confronting Our History,” oftentimes lost in these conversations are the real-world effects of the emotional and psychological harm these slaveholder and confederate commemorations have on the mind, body, and soul of Black students, faculty, staff, alumni, and other people of color in the local community who must encounter these

³² *Id.* at 27

³³ *Id.* at 30; see also *C/M/LAW Forum on The Legacy of Chief Justice John Marshall* (Finkelman Remarks), *supra*

³⁴ JOHN MARSHALL: THE MAN WHO MADE THE SUPREME COURT, *supra*

³⁵ *Id.*

³⁶ Dr. Ashley N. Woodson was recently appointed the Dean of the School for Public Purpose and Professional Advancement at Albion College. Prior to this appointment, she served as the Assistant Director of the National Center of Institutional Diversity at the University of Michigan. Dr. Woodson received her Ph.D. in curriculum and instruction from Michigan State University. She also completed her master’s degree at MSU, in African and African American Studies, counseling and educational psychology, and special education. She is also co-editor of the volume, *The Future Is Black: Afropessimism, Fugitivity and Radical Hope in Education* with Carl A. Grant and Michael Dumas.

symbols of racism, oppression, and slavery on a daily basis.³⁷ These racist commemorations inflict cultural and structural harm on the descendants of slaves and have an undeniable toll on the psyche of Black men, women, and children. “When Black children are aware that their schools are named after individuals who enacted intentional or severe or intentional and severe harms on their communities, it affects how they want to participate in schooling as a system [and] how they understand themselves – [their] positive racial identity, [their] positive self-regard – and it affects their long-term investment and fidelity to the democratic process that purportedly we all hold as central and valuable in the United States,” explained Dr. Woodson.³⁸

For example, when UC Berkley Law School made the decision to remove John Boalt’s name from the largest building on campus because of his strongly held racist viewpoints, the school made sure to point out and address the present-day harm racist symbols have on people of color: “It’s incredibly important to confront racist symbols, like John Boalt’s name on a building, because these symbols act to reinforce the history of white supremacy in our institutions” and “they can make students who learn about this history then feel excluded, like there is an endorsement of that racism by the institution itself.”³⁹

Thus, it is crucial that we address and prioritize the present-day harm these commemorations continue to have on people of color over our apparent need in society to honor and commemorate controversial and dead figures of the past. Indeed, many Black people understand and share the sentiments expressed by Dr. Woodson during the forum, when she explained just how difficult it is as a Black person “to live in a country where the possible sentiments or good deeds of white men who have been dead for centuries override the hopes of the Black [and minority] students [trying] to increase their sense of psychological safety ... on the campus they pay to attend.”⁴⁰

However, the harmful effects of slaveholder and confederate commemorations are not isolated to people of color. As Professor Jacqueline Jones⁴¹ made certain to point out during one of the forums, as a white woman, she too was astounded to see statues of Jefferson Davis, Robert E. Lee, and Albert Sidney Johnston when she first stepped foot on campus at the University of Texas. She exclaimed:

³⁷ *C|M|LAW Forum on Facing and Confronting Our History* (March 22, 2021) (Remarks by Expert Panelist Dr. Ashley Woodson) (<https://guides.law.csuohio.edu/c.php?g=1157047&p=8445447>)

³⁸ *Id.*

³⁹ <https://news.berkeley.edu/2020/01/30/boalt-hall-denamed/>

⁴⁰ *C|M|LAW Forum on Facing and Confronting Our History* (Remarks by Dr. Ashley Woodson), *supra*

⁴¹ Professor Jacqueline Jones is President of the American Historical Association and the Ellen C. Temple Professor of Women’s History and Mastin Gentry White Professor of Southern History at the University of Texas at Austin, where she teaches courses in American history. Before coming to UT, she taught at Wellesley College, Brown University, and Brandeis University. She is president of the American Historical Association. Prof. Jones is also the author of several books, including *A Dreadful Deceit: The Myth*.

*I was offended; I was shocked as an American citizen that people who had committed treason and taken up arms against the United States were given this place of honor on the campus.... I knew who Jefferson Davis was and what he had done, but I had a visceral reaction. I was just so appalled by the sight of him. It was an offense. I was offended deeply as a citizen.*⁴²

Thus, confronting and addressing the harm slavery and symbols of slavery and oppression have had and continue to have on the Black community is not only necessary to the well-being of Black folks, but to all Americans.

D. Confronting the complex history of John Marshall and addressing the pain and sorrow his legacy has on people of color does not amount to “cancel culture” or the erasure of history.

Those who advocate for the removal of confederate statutes and the names of slaveholders from public buildings and spaces are routinely accused of trying to erase America’s history. Such a narrative, however, misconstrues the issue before us and the nature of the petitioners’ demand for accountability regarding the law school’s namesake.

We have not been asked to “erase” John Marshall from our country’s history or from the history of this Law School. Nor have we been asked to alter or eliminate the significant and profound role John Marshall played in the development of judicial review or our legal system in general. Frankly, any suggestion that we can somehow “erase” John Marshall from our history books or from the history of this college, not only smacks of arrogance, but drastically overstates the power and influence we have over historical figures. John Marshall will always have his distinct place in history as the founding father of our legal system and will always be a significant figure in the legacy of this Law School.

What we have been asked to do, instead, is to confront the complex history and legacy of John Marshall and to recognize the pain and sorrow that Black Americans feel on a daily basis when they are constantly reminded of our nation’s tendency to celebrate and honor, at their expense, those who have held in bondage their ancestors and dedicated their lives to protecting, defending, and upholding slavery and oppression. It is one thing to be an unapologetic racist; it’s a whole different level of callousness to enslave another human being and deprive him or her of all freedom, dignity, and respect – all while fully comprehending the magnitude of one’s actions and acknowledging the evilness of slavery.

As Professor Jones stated: “Confronting history does not mean erasing history. I’ve heard too often people say, ‘well, if we take down a monument or if we change a name, we’re trying to deny a part of our history that happened or trying to erase that history.’ I

⁴² C|M|LAW Forum on Facing and Confronting Our History (Remarks by Expert Panelist Prof. Jacqueline Jones), *supra*

would say to the contrary.... Look at other efforts related to considerations of renaming. They encourage people to confront history, to grapple with it, to come to terms with it, and that's a great process. And that's the opposite really of erasing history.... Each generation revisits its own history [and] revisits the past; not to erase it, but to understand it and to confront it.”⁴³

Indeed, the fear of so-called “cancel culture” is a complete red herring in this debate. No one is erasing or attempting to eradicate the names of our founding fathers from our textbooks simply by removing the name of a prominent slaveholder from above the doors of a law school that purports to welcome with open arms people of color and descendants of slaves. It's a false notion and misleading comparison. As Professor Garrett Epps⁴⁴ commented: “Whoever coined the term ‘cancel culture’ is kind of a genius of propaganda because it suggests that a very normal social [and] historical process of re-examining history has become some sort of nefarious, sort of Orwellian process.... The idea that somehow we're going to erase the history of the Civil War is laughable.” While symbols and names of our institutions may change, the actual contributions or lack thereof of these controversial figures remain. There's no “erasing” or “cancelling” John Marshall or his contributions to the development of the federal courts or our legal system. While Marshall's name may be removed as the namesake of the law school, there's no chance that his name will be removed from our textbooks or from constitutional law courses taught right here on our campus. His place in history is truly etched in stone. Anyone who claims or suggests otherwise is purposely trying to muddy the waters of this debate and to shift focus from rectifying the harm Marshall's name and likeness continues to have on the Black community today.

E. The various guidelines used by institutions when determining whether to change its name based on historical controversies all lead to the same conclusion that CSU Cleveland-Marshall College of Law should change its name and remove all references to John Marshall.

So, based on all we now know about Chief Justice John Marshall and how commemorations to slaveholders and confederate soldiers have a negative effect on the mind and well-being of Black Americans, how does this guide us in deciding whether to remove the reference to John Marshall from the law school's name? Well, fortunately (and unfortunately), C|M|LAW is not the first and only law school faced with this dilemma. Of the two other law schools in the country bearing John Marshall's name, one has already made the decision to remove it (University of Illinois Chicago School of Law – formerly UIC John Marshall Law School) and removal is currently under consideration at the other (Atlanta's John Marshall Law School).

⁴³ *Id.*

⁴⁴ Professor Garrett Epps is Legal Affairs Editor of The Washington Monthly. He is Professor Emeritus at the University of Baltimore School of Law. He has also taught Constitutional Law at American University, Boston College, Duke, and the University of Oregon. His books include Democracy Reborn: The Fourteenth Amendment and the Fight for Civil Rights in Post-Civil War America and American Epic: Reading the US Constitution.

When UIC announced its decision to change the name of its law school, it explained “that despite Chief Justice Marshall’s legacy as one of the nation’s most significant U.S. Supreme Court justices, the newly discovered research regarding his role as a slave trader, slave owner of hundreds of slaves, pro-slavery jurisprudence, and racist views render him a highly inappropriate namesake for the Law School.”⁴⁵ As part of its process, UIC identified and adopted the following three principles to guide its decision:

1. The Law School’s official name should align with UIC Diversity Initiatives.
2. The Law School’s official name should be responsive to the needs of an increasingly diverse public to resist the vestiges of slavery and confront white supremacy.
3. The Law School’s namesake should have some connection or relationship to the Law School or provide some concrete benefit to the School.⁴⁶

Moreover, the concept of renaming institutions that were originally named after controversial historical figures, including slaveholders and other unabashed racists, is not new.⁴⁷ For many decades, institutions have revisited their names to ensure that the namesake accurately reflects the institution’s current mission and values. As institutions that have gone through the process have made clear, the decision to remove the name of a slaveholder or a racist figure from association with the institution has nothing to do with so-called “cancel culture” or trying to erase history. Rather, it has everything to do with upholding the mission and values of the institution and embracing a more accurate and inclusive history. For C|M|LAW, that includes directly confronting the atrocities

⁴⁵ <https://today.uic.edu/board-approves-new-name-for-uic-law>

⁴⁶

https://m.box.com/shared_item/https%3A%2F%2Fuofi.box.com%2Fs%2F8r9dzgsfuc7xshrrb6uboruc8r3hfsj0

⁴⁷ The following is a brief list of schools that have changed their names due to the namesake being a slaveholder or a blatant racist:

- Yale University renamed Calhoun College because “John C. Calhoun’s legacy as a white supremacist and a national leader who passionately promoted slavery as a ‘positive good’ fundamentally conflict[ed] with Yale’s mission and values.”
- Georgetown University changed the names of at least two buildings that had been named for university leaders who sold 272 slaves to finance Georgetown University campus operations.
- Princeton University removed the name of Woodrow Wilson from both the School of Public and International Affairs and Wilson College because “Woodrow Wilson’s racist thinking and policies ma[d]e him an inappropriate namesake for a school or college whose scholars, students, and alumni must stand firmly against racism in all its forms.”
- Duke University removed former Governor Charles B. Aycock’s name from one of its dormitories because despite his “notable contributions to public education in North Carolina, his legacy is inextricably associated with the disenfranchisement of black voters.” Duke officials noted, “the values of inclusion and nondiscrimination are key parts of the university’s mission. After careful consideration, we believe it is no longer appropriate to honor a figure who played so active a role in the history that countered those values.”

committed by the namesake of our beloved law school and putting an end to the undeserved honorarium bestowed upon a man who bought, sold, and enslaved hundreds of other human beings and who had **no** affiliation at all with C|M|LAW or CSU.

To further assist in the process of evaluating whether to remove or retain the John Marshall name, the Law School hosted a series of forums on the topic featuring some of the top experts, scholars, and historians in the country.⁴⁸ While moderating the forum on the “Guiding Principles for Naming an Institution,” Dean Lee Fisher asked each expert panelist the following question: “Do we make these [naming] decisions using the values of today or the values of when that historical figure lived?” To a person, all three expert panelists agreed that we must make these naming decisions based on the values of today, while recognizing the historical context.⁴⁹ As the Dean of UC Berkley Law School, Erwin Chemerinsky,⁵⁰ carefully explained:

*We have to make the choices from the values of today. Those are the only values that we have. I certainly agree that we have to contextualize our decisions in history. I certainly agree that we need to be sensitive to all of the constituencies. But, to go back to the decision that I faced, I knew that my students, faculty, staff, and alumni of color – especially those of Asian descent – felt great offense to having a building named for somebody who had said such racist things. That’s using the values of today.*⁵¹

To further emphasize the importance of using the present values of today in naming decisions, Professor Danielle Moretti-Langholtz⁵² discussed, during the forum, the

⁴⁸ See <https://guides.law.csuohio.edu/c.php?g=1157047&p=8445447>

⁴⁹ See *C|M|LAW Forum on Guiding Principles for Naming an Institution* (April 23, 2021) (<https://guides.law.csuohio.edu/c.php?g=1157047&p=8445447>)

⁵⁰ Erwin Chemerinsky is the Dean of Berkeley Law and the Jesse H. Choper Distinguished Professor of Law. Prior to assuming his current role as Dean, he was the founding Dean and Distinguished Professor of Law at University of California, Irvine School of Law. He is the author of fourteen books, including leading casebooks and treatises about constitutional law, criminal procedure, and federal jurisdiction. His most recent books are *The Religion Clauses: The Case for Separating Church and State*, and *Presumed Guilty: How the Supreme Court Empowered the Police and Subverted Civil Rights* (to be published by Norton in 2021). He also is the author of more than 250 law review articles. He frequently argues appellate cases, including in the United States Supreme Court. In 2017, *National Jurist* magazine again named Dean Chemerinsky as the most influential person in legal education in the United States. In January 2021, he was named President-elect of the Association of American Law Schools.

⁵¹ *C|M|LAW Forum on Guiding Principles for Naming an Institution* (Remarks by Expert Panelist Dean Erwin Chemerinsky), *supra*

⁵² Professor Danielle Moretti-Langholtz is the Thomasina E. Jordan Director of the American Indian Resource Center in the Department of Anthropology at William & Mary. A cultural anthropologist with a doctorate from the University of Oklahoma, she is the administrator of the interdisciplinary Native Studies minor, and teaches a variety of courses on indigenous history and culture. Additionally, she

following guidelines⁵³ adopted by the College of William & Mary when considering the naming and renaming of an institution or parts thereof:

1. The naming and renaming process must represent the college's diverse constituencies.
2. Names associated with the institution should represent the **present mission and values of the college**. To demonstrate the college's commitment to inclusion, equity, and justice, we should focus our attention on the institution's present values – not the past.
3. Naming or changing names associated with the institution should contribute to the increase in diversity of commemorations across the college campus. Naming and renaming provides unique opportunities to foster a more welcoming, equitable, and inclusive campus environment that embraces diverse individuals and perspectives across a broad spectrum of differences (i.e., race, gender, religion, etc...).
4. The decision to rename an institution (or portions thereof) associated with a historic figure should meet a high standard and should only be done after undertaking thorough and comprehensive research and deliberation that takes into account the **present mission and values of the college**.
5. Where appropriate, the name should be relevant to the institution or program. Strong consideration should be given to whether the person had any ties or connection to the institution or program in question.⁵⁴

In addition to the above guidelines, Professor Allen C. Guelzo⁵⁵ recommended during the same forum that the law school use the following **5-Step Decision-Tree** to determine whether to disassociate ourselves with the John Marshall name:

serves as the Curator of Native American Art at the Muscarelle Museum of Art on William & Mary's campus.

⁵³ Note that all three research guidelines are combined into Guideline #4 above and that the college signage/digital content and campus landscape/master plan guidelines were omitted since they are inapplicable to our scenario.

⁵⁴ *C/M/LAW Forum on Guiding Principles for Naming an Institution* (Remarks by Expert Panelist Prof. Danielle Moretti-Langholtz), *supra*

⁵⁵ Professor Allen C. Guelzo is the Senior Research Scholar in the Council of the Humanities and Director of the Initiative on Politics and Statesmanship in the James Madison Program at Princeton University. He is the author of *Abraham Lincoln: Redeemer President* (1999), *Lincoln's Emancipation Proclamation: The End of Slavery in America* (2004), *Lincoln and Douglas: The Debates That Defined America* (2008) and *Fateful Lightning: A New History of the Civil War and Reconstruction* (2012). His book on the battle of Gettysburg, *Gettysburg: The Last Invasion* was a New York Times best seller in 2013. He has produced six lecture series for The Teaching Company, on topics ranging from Mr. Lincoln to The American Revolution to (most recently) America's Founding Fathers. His most recent book is *Reconstruction: A Concise History* (Oxford University Press, 2018) and he is currently at work on a biography of Robert E. Lee.

1. *Does the naming commemorate an individual who inflicted harms on a living person that would be actionable in a federal court? If so, remove the name; if not, move to the next question.*
2. *Did that individual institute or order the commission of treason, capital crimes, slavery, genocide, or terrorism (as defined by the International Court of Justice) on his personal authority? If so, remove the name; if not, next question.*
3. *Did the individual have a specific connection to the institution for which it is named? In other words, was the person born or raised there, or did a momentous event in their life happen there? If not, remove the name. If so, think hard about what kind of event this was and whether it merits a naming, then go to the next question.*
4. *Does use of the name mandate or induce the institution to serve as an active venue for promoting treason, capital crimes, slavery, genocide, or terrorism? If not, go to the next question.*
5. *Did the individual undertake specific acts that mitigated, or led to the mitigation, of the historical harms done? By this point, we are close to concluding that the naming could stay. But only, after this question, with this caveat: Itemize those mitigations on a plaque or other public installation and do it clearly.⁵⁶*

If we were to adopt Professor Guelzo’s decision-tree above, the outcome would be clear – remove all references to John Marshall from the Law School’s name. In fact, we wouldn’t even need to move beyond question 2 to reach that conclusion. Marshall personally bought, sold, and enslaved more than 200 human beings of African descent. As such, he “personally” instituted slavery at the many properties he owned throughout Virginia and “personally” ordered the commission of slavery by those individuals who were charged with the upkeep of his properties. Based on the above decision-tree and the answer to the second question, C|M|LAW should remove all references to John Marshall’s name.

But, even if we were to continue to the third question, the result would be the same – John Marshall’s name should be removed from C|M|LAW. Chief Justice John Marshall had no affiliation whatsoever with the Law School or CSU. He did not graduate from or attend C|M|LAW or CSU. There is no evidence that any relative or descendant of John Marshall played any role in Marshall’s name being affixed to the Law School. There is no evidence of any monetary donations, contributions, grants, or bequests to the Law School or CSU that were premised on naming the institution after John Marshall or maintaining Marshall’s name in association with the Law School. John Marshall was not born or raised in Cleveland, nor did he live in Cleveland. He never attended school in Cleveland or taught in Cleveland. He did not practice law in Cleveland or make any other direct contributions to the Cleveland-area. Bottom line, John Marshall had no

⁵⁶ *C|M|LAW Forum on Guiding Principles for Naming an Institution* (Remarks by Expert Panelist Prof. Allen Guelzo), *supra*; see also Allen C. Guelzo, *What’s in a Name? A Lot of History* (2021) (<https://guides.law.csuohio.edu/c.php?g=1157047&p=8445511>)

known affiliation or connection to the current or previous configuration of this Law School.

And if that wasn't enough, the answer to the fifth question also dictates that Marshall's name be removed from the Law School. John Marshall took no steps or action whatsoever to mitigate the historical harms he caused to enslaved people and their descendants. Marshall had every opportunity in the world to redeem himself for his active participation in slavery and for his pro-slavery jurisprudence, but he never did. As Professor Finkelman points out, despite the many slave cases that came before him, "Chief Justice Marshall *never* wrote an opinion supporting black freedom."⁵⁷ And unlike some slaveholders who later sought redemption by freeing their slaves,⁵⁸ Marshall never freed any of the hundreds of Black men, women, and children that he personally enslaved over the years. Not even one. Not even upon his death. Thus, Marshall's failure to seek redemption for his historical harms is just one more of the many reasons why John Marshall's name should be removed from the Law School.⁵⁹

Moreover, in the guidelines articulated above by UIC and the College of William & Mary, three themes run constant: (1) that the namesake of your institution should have some deeply rooted ties or connection to the institution; (2) that the namesake of your institution should accurately represent and reflect the present-day mission and values of your institution; and (3) that if you purport to advocate for social justice and racial equality and claim to value and foster an institution that represents diversity, equity and inclusion, then your namesake should be representative of those principles and values as well. However, as fully discussed above, John Marshall had no ties or connection whatsoever to C|M|LAW or CSU. Also, when you look at the current mission and values of C|M|LAW, it is clear that the John Marshall name does not accurately reflect the

⁵⁷ Finkelman, *supra* at 28

⁵⁸ For instance, in his will, George Washington freed every single person who was still enslaved by his estate upon his death. See *C|M|LAW Forum on The Legacy of Chief Justice John Marshall* (Finkelman Remarks), *supra*. Likewise, by the end of the American Revolution, Benjamin Franklin had freed all his slaves, had become the President of the Pennsylvania Abolition Society, and later specified in his will that his estate would only pass to his heirs if they freed all their slaves. *Id.* Chief Justice John Marshall, on the other hand, freed no one.

⁵⁹ The irony and hypocrisy of Marshall's decision to not free any of the people he enslaved either during his life or upon his death should not be lost on anyone. This is because Marshall was a prominent life member of the American Colonization Society ("ACS") and the president of the Richmond branch. Many in the ACS readily acknowledged that slavery was immoral and wrong, but its members (including Marshall) nonetheless harbored racist and unjustified viewpoints that free Blacks were incapable of living alongside White people in harmony and they feared that newly freed Blacks would rebel against their former enslavers and start a race war. Marshall even petitioned the Virginia legislature for funds to send free Blacks to Liberia, arguing "that free blacks in Virginia were worthless, ignorant, and lazy" and amounted to "'pests' who should be removed from the state." Finkelman, *supra* at 51. Thus, Marshall and other members of the ACS oftentimes encouraged other slaveholders to voluntarily free their slaves and send them to Africa to re-colonize in Liberia. Despite spending his own money to fund these efforts, Marshall never heeded his own advice to free any of the people he enslaved and to re-colonize them in Africa.

present mission and values of this institution, nor does it align with the recent and heightened commitments made by both the Law School and CSU to foster an environment that is welcoming and supportive of all people and to work towards a goal of antiracism.

F. The present-day mission and values of CSU Cleveland-Marshall College of Law demonstrate a strong commitment to social justice, diversity, equity, inclusion, and antiracism, which are diametrically at odds with John Marshall’s blatantly racist and pro-slavery viewpoints.

The mission of C|M|LAW is to *Learn Law, Live Justice*. The Law School’s vision statement is: “To be the leading student-centered public law school, committed to both excellence and opportunity, with an ethos of social justice and a national voice.”⁶⁰ Some of the guiding values of the Law School include: civic engagement and leadership; diversity, inclusion, and opportunity; professionalism and integrity; and social justice and civil rights – among others.⁶¹

The Law School also markets itself as a leader in social justice movements that is committed to diversity and fighting for racial and social equality. As stated on the Law School’s website:

*CSU Cleveland-Marshall graduates have a history that is strong in social justice, leading at the forefront of major social movements including women’s suffrage and civil rights. Committed to diversity, we have admitted women since we were founded in 1897, and were one of the first law schools in Ohio to admit African Americans. Today, our students learn to recognize injustice through hands-on work for reform through our Criminal Justice Center, multiple opportunities to help clients in our clinics, and through the school’s commitment to fight for racial and social justice.*⁶²

Furthermore, in the wake of the murder of George Floyd and the civil rights protests that followed thereafter, both CSU and the Law School issued multiple statements reconfirming their values and commitments to diversity, equity and inclusion and promising to strengthen their commitments to address racial equity, social justice, and the impact of systemic racism on students, faculty, and staff of color. The Law School also created a Racial Justice Task Force,⁶³ a Social Justice and Antiracism Resources

⁶⁰ <https://www.law.csuohio.edu/meetcmlaw/mission>.

⁶¹ See <https://www.law.csuohio.edu/sites/default/files/newsevents/strategic-plan-4-page-reduced.pdf>

⁶² See <https://www.law.csuohio.edu/meetcmlaw>. This paragraph also links to a social justice and anti-racism webpage. See <https://www.law.csuohio.edu/meetcmlaw/noroomforsilence>.

⁶³ <https://www.law.csuohio.edu/meetcmlaw/noroomforsilence/racialjusticetaskforce>

Guide,⁶⁴ and a social justice and antiracism webpage entitled: “No Room for Silence | Live Justice.”⁶⁵

Included on the social justice and antiracism webpage are the following messages from C|M|LAW Dean Lee Fisher and President of Cleveland State University, Harlan M. Sands:

- “A challenge for all of us: let’s look inside of ourselves. Consider our own conscious and unconscious racial biases by questioning everything, listening more closely, and then – most important – becoming an active participant in changing our collective path forward.”⁶⁶
- “[M]any of our students came to CSU Cleveland-Marshall not only to learn law but, as our mission cries out, to ‘live justice.’ To advocate for fixing what’s broken. To forcefully call out injustice and decry inequality.... Those of us who have not lived the experience of racism that defines the lives of so many must dedicate ourselves to using the privilege of our life experiences to bring about change. We must pledge to examine our own conscious and unconscious biases and how we can better stand in solidarity and alliance with communities of color and the disenfranchised. Last week, we sent messages offering our unequivocal support and affirmation to our students of color, and reaffirming our law school’s commitment to our mission to ‘Live Justice’.... We recognize that this has impacted our brothers and sisters of color in our law school community, especially our Black students, faculty members and staff in ways that those of us who are not Black or of color, cannot fully understand. But we do know one thing. We are with you.”⁶⁷
- “AT CSU, WE STAND TOGETHER AGAINST RACISM – AND ARE COMMITTED TO ACTION: Suppose... we finally did something more than just had another conversation about racism and police brutality and pervasive discrimination. Imagine if we truly listened and learned, intent on understanding. And then we took what we learned and replaced hate, fear, hostility, or indifference with empathy, compassion, goodwill, opportunity, and change. Real change.... This kind of change must stir our collective conscience, acknowledge our implicit biases, and address the impact of our country’s troubled history of systemic racism and its contemporary manifestations. This kind of change requires each of us to act.... Today, we begin our commitment to go beyond words. Step 1 – We will take a good, hard look at ourselves to make certain our house is in order.”⁶⁸

⁶⁴ <https://guides.law.csuohio.edu/SocialJusticeAntiRacism>

⁶⁵ <https://www.law.csuohio.edu/meetcmlaw/noroomforsilence>

⁶⁶ <http://newsletter.csuohio.edu/president/200347/index.html> (posted June 1, 2020).

⁶⁷ <https://www.law.csuohio.edu/meetcmlaw/noroomforsilence> (posted June 8, 2020).

⁶⁸ <http://newsletter.csuohio.edu/president/200366/index.html> (posted June 12, 2020).

These are the foundations, principles, and values that are at the core of C|M|LAW. It is these principles and values upon which we recruit students and hire faculty and staff. Yet, the namesake of our Law School failed to live up to these principles and values. In fact, the decisions made by Chief Justice John Marshall from the bench and in his personal life were diametrically opposed to the principles and values adopted and expressed by this Law School.

Are Black faculty, staff, students, alumni, and other people of color of the Law School community simply supposed to forget about the above promises and renewed commitments made by the Law School and CSU to “truly listen” to the lived experiences of people of color and “to go beyond words” to bring about “real change” to “address the impact of our country’s troubled history of systemic racism and its contemporary manifestations” and to “stand in solidarity and alliance with communities of color” by “creating a community where all feel supported and valued”? It would be nothing short of hypocrisy if the Law School were to retain the Marshall name despite the strong and renewed commitments made by both the Law School and CSU to carefully listen, understand, and take immediate action to address systemic racism.

G. John Marshall knew and acknowledged that slavery was immoral and wrong but he lacked the moral character and fortitude to do what was right and prioritized his own wealth over the freedom of Black people.

Any decision to retain John Marshall as the namesake of our Law School not only ignores the brutal reality of slavery and its past and current harms, but also serves to co-sign the false notion that slavery was a “necessary evil” universally accepted during Marshall’s lifetime. That simply is not true. As nearly every competent historical scholar agrees, many people (both White and Black alike) were adamantly opposed to slavery during Marshall’s lifetime and worked tirelessly to abolish the immoral and inhumane practice. As Professor Jacqueline Jones explained in greater detail:

Often you will hear people say, ‘well, everybody should be judged according to their own times in history’.... Well, I would argue against that.... The abolitionist movement goes way back to the mid-18th century. These were all people, North and South, who understood that slavery was a great crime against humanity. Most of them didn’t care. But they certainly understood the argument against slavery. So, I think we do make a mistake in a historical sense if we just let a lot of people off the hook because they were the ‘product of their times’ and assume they didn’t or weren’t aware of, you know, the tremendous debate that was going on really from the mid-18th century on about slavery and social justice.⁶⁹

Even the current Chief Justice of the U.S. Supreme Court, John Roberts, has refuted the claim that people weren’t concerned about slavery during Marshall’s lifetime and that it was generally acceptable. In the documentary *John Marshall: The Man Who Made the*

⁶⁹ C|M|LAW Forum on Facing and Confronting Our History (Remarks by Expert Panelist Prof. Jacqueline Jones), *supra*

Supreme Court, Chief Justice John Roberts had the following to say about John Marshall's time on the bench: "I don't think he revealed any real sensitivity to the slavery problem, and I'm not sure he can rely on the justification that 'well, nobody was concerned about it at the time' because people were, and he was not."⁷⁰

In fact, John Marshall even knew the practice of slavery was immoral and wrong during his lifetime. We know this to be certain because Marshall told us so, himself, from the center chair of the Supreme Court. In *The Antelope* case, Marshall declared slavery to be "contrary to the law of nature" and that "every man has a natural right to the fruits of his own labour" and "that no other person can rightfully deprive him of those fruits, and appropriate them against his will...."⁷¹ Marshall understood at the time that the "law of nature" was considered the source of moral values and norms in society and that under the law of nature all men have inherent rights, conferred not by man or an act of legislation, but by God, nature, or reason and that such rights were immutable and generally applicable to all mankind from the beginning of creation to the end of time. Thus, Marshall was of the opinion, himself, that slavery was immoral and wrong and ran contrary to the inherent rights conferred upon all mankind by God or nature. Despite recognizing and acknowledging the immorality of slavery, Marshall still **chose** to uphold the practice from the center seat of the highest court and **chose** to personally participate in the inhumane practice of buying, selling, and enslaving Black men, women, and children and separating Black families.

H. Conclusion

Thus, even if we were to judge and evaluate John Marshall's voluntary and active participation in slavery under the values and standards of his time, he would still fail to be worthy of the namesake of our Law School. Slavery is not only immoral and wrong today, but Marshall knew it to be wrong during his lifetime, when he served as the Chief Justice of the Supreme Court.

Marshall was very much a man of the ilk, "do as I say, not as I do." The blatant hypocrisy between Marshall's public statements regarding slavery versus his actions and inactions towards slavery in his private life are blaringly obvious today but was much easier to keep tamped down and under wraps during his lifetime, when there was no radio, no television, no internet, no social media, no Facebook, no Twitter, and no investigative journalists exposing the private lives of the nation's Founding Fathers. This made it easier for Marshall to criticize slavery and declare it immoral in his written opinions from the High Court, all while upholding its legality and knowingly participating in the evilness of slavery when he returned home to his private life in Virginia. According to historians, Marshall kept the fact that he was a prolific slaveholder hidden from his

⁷⁰ JOHN MARSHALL: THE MAN WHO MADE THE SUPREME COURT (Remarks by Chief Justice John Roberts), *supra*

⁷¹ *The Antelope*, 23 U.S. 66, 120 (1825).

fellow jurists on the Supreme Court.⁷² Likewise, even President John Adams had no clue Marshall was enslaving hundreds of people back in Virginia when he appointed Marshall to the Supreme Court.⁷³

Marshall's ability to keep his slaveholdings largely unknown also made it easier for Marshall to publicly advocate that slaves be freed and shipped to Africa for re-colonization in Liberia, all while privately refusing to free **any** of the hundreds of people he enslaved throughout his lifetime. So, again, Marshall had no problem encouraging other slaveholders to free their slaves and send them to Africa, but he was unwilling to do so himself.

Clearly, Marshall knew slavery was immoral and wrong and that the right thing to do would have been to free his slaves and to declare from the bench that the inhumane practice of slavery was illegal under the laws and the Constitution of the United States. However, Marshall lacked the moral character and fortitude to do what was right concerning slavery. He was unwilling to sacrifice his own wealth, which was amassed through slavery, and he harbored racist viewpoints and beliefs that the Black men, women, and children he enslaved were unable to live in harmony with White people and would violently rise-up and attack their former enslavers if freed and not sent back to Africa.⁷⁴

Thus, with all we currently know about John Marshall, why would we continue to honor and commemorate a man who enslaved hundreds of human beings, who considered and treated Black people as inferior and nothing more than chattel property (both in his personal life and as the Chief Justice of the Supreme Court), who refused to use the power of his almighty pen to free slaves and declare slavery illegal, and whose racist and oppressive viewpoints and values are diametrically at odds with the current values of our Law School and the broader society in general? Why?

The bottom line is that Marshall was on the wrong side of history, and if this Law School continues to honor and commemorate the legacy of a slaveholder, we will soon find ourselves on the wrong side of history as well. As Professor Finkelman brilliantly reminded us: "We honor people not because they are just like everybody else; we honor people because they are **better** than everybody else. And on this issue, there is no honor for John Marshall."⁷⁵

⁷² C|M|LAW Forum on *The Legacy of Chief Justice John Marshall* (Finkelman Remarks), *supra*

⁷³ *Id.* (Remarks by Finkelman and Prof. Kevin Walsh).

⁷⁴ Marshall's feelings and viewpoints on Native Americans were no better.

⁷⁵ *Id.* (Finkelman Remarks).

IV. Some Alternative Naming Options

***Judge Ronald Adrine '73, Judge Patricia A. Blackmon '75,
Terry Billups '05, P. Kelly Tompkins '81***

It should be noted that the primary issue before us now is whether to retain or remove the name of John Marshall from our Law School. We have, however, included this brief section devoted to some possible alternative names simply for context and discussion.

The imperative for changing the name of the Law School and removing all references to Chief Justice John Marshall is brought into sharper focus when you consider that there are other viable and appropriate naming alternatives available that align with the Law School's current values and mission. Four excellent alternatives are described below, each of which provides a unique opportunity to foster a more welcoming, equitable, and inclusive campus environment that embraces diverse individuals and perspectives across a broad spectrum of differences. However, this is not intended to be an exclusive list; there are, of course, other possible alternative names that could be considered if the Law School is no longer named after Chief Justice John Marshall.

A. Thurgood Marshall (submitted by Judge Ronald Adrine '73)

It is not necessary to change our Law School's name at all. In a post George Floyd America, it is only necessary to change for whom the school is named. Instead of naming the Law School for U.S. Supreme Court Chief Justice John Marshall it could be named for U.S. Supreme Court Associate Justice Thurgood Marshall. Among other things, Thurgood Marshall was an exemplary appellate advocate. As a civil rights litigator, he argued 32 cases before the U.S. Supreme Court, more than any other individual in the history of the republic. Of those cases he prevailed in 29. The most consequential of those victories was, of course, *Brown vs. Board of Education of Topeka* in 1954. In it, the Supreme Court unanimously ruled that "separate educational facilities are inherently unequal," thus transforming American society forever.

In 1961, President John F. Kennedy appointed Marshall to the U.S. Court of Appeals. As a member of the U.S. Second Circuit Court of Appeals, Marshall wrote over 150 opinions, including support for the rights of immigrants, limiting government intrusion in cases involving illegal search and seizure, double jeopardy, and cases involving issues of rights to privacy. None of his 98 majority opinions was ever reversed by the Supreme Court. In 1965, President Lyndon Johnson appointed Judge Marshall to serve as U.S. Solicitor General, representing the federal government before the Supreme Court. Prior to his subsequent nomination to the United Supreme Court, Thurgood Marshall won 14 of the 19 cases he argued on behalf of the government. Indeed, he represented and won more cases before the United States Supreme Court than any other American. In 1967, following the retirement of Justice Tom Clark, President Johnson appointed Thurgood Marshall to become the first Black justice to serve on the Court. On the Supreme Court, Justice Marshall developed a reputation as a passionate member of that body who

supported expanding civil rights, enacting affirmative action laws, and limiting criminal punishment.

Renaming the Law School after Justice Thurgood Marshall benefits our institution in several ways:

- It honors a truly deserving giant of U.S. Supreme Court jurisprudence.
- It honors an individual whose entire life embodied our motto, “*Learn Law, Live Justice.*”
- It allows us to retain our brand without disruption.
- It sets a tone for examining and resolving issues of racial inequity, at home and abroad.

Following his death, in 1993, the U.S. Supreme Court approved a special resolution honoring him. In it, Chief Justice William Rehnquist wrote:

The majority of the Supreme Court Justices are almost always remembered for their contributions to constitutional law as a member of this Court. Justice Marshall, however, is unique because his contributions to constitutional law before becoming a member of the Court were so significant.

Inscribed above the front entrance to this Court building are the words, ‘Equal Justice Under Law.’ Surely no individual did more to make these words a reality than Thurgood Marshall.

Given our institution’s current name, some may see this suggested alteration as, “too convenient” or as “a disingenuous and expeditious way of disposing of an inconvenient problem.” We see it as a happy coincidence, that not only resolves the problem, but also directly addresses the seminal issue that brought the matter before us for resolution in the first place: the historic racial inequities promulgated, advanced and/or tolerated by the founders of this country.

Thurgood Marshall is quoted as saying:

I wish that racism and prejudice were only distant memories. We must dissent from the indifference. We must dissent from the apathy. We must dissent from the fear, the hatred and the mistrust... We must dissent because America can do better, because American has no choice but to do better.

Renaming CSU Cleveland-Marshall College of Law after Thurgood Marshall would allow us to expeditiously move on to spend our time identifying and addressing concrete and substantive concerns that implicate racial inequality in our school’s environment and

experience and in the surrounding community at-large, to allow us, in short, “to do better.”

B. Louis and/or Carl Stokes (submitted by Terry Billups ‘05)

Whom better to name the Law School after than the Honorable Louis Stokes or the combination of Louis and his younger brother, Carl Stokes? Both brothers are iconic and heroic figures in Cleveland and throughout the country. Their legal and political contributions over the years to the Cleveland community and towards social justice everywhere is unequivocal. Throughout their careers and lives, both brothers exemplified the law school’s motto: “*Learn Law, Live Justice.*”

Louis Stokes was the older brother. Carl was two years younger. Both were born and raised right here in Cleveland, Ohio. Both brothers served in the Army and experienced the cruel reality of racism and discrimination first-hand while stationed in the Jim Crow south.

Eventually, they both returned to Cleveland to “Learn Law” and earned their *juris doctorates* from the Cleveland-Marshall Law School – Louis in 1953 and Carl in 1956. This is just one of many reasons why Louis and/or Carl Stokes are perfect candidates to be bestowed with the honor and recognition of having the Law School named after one or both legendary figures.

As proud alumni, the two brothers initially teamed up to establish a successful law practice in Cleveland. However, it was not long before both recognized they were called to a life of social justice and public service; they were called to “Live Justice” and that’s what they did.

Louis quickly became a prominent civil rights attorney and was heavily involved in the Cleveland chapter of the National Association for the Advancement of Colored People (NAACP), where he took on several important civil rights cases on behalf of the NAACP. In 1967, Louis Stokes argued one of the most seminal cases in all of criminal law before the U.S. Supreme Court in *Terry v. Ohio*. This landmark case established the “reasonable suspension” standard that is now controlling precedent in police “stop-and-frisk” cases governed by the 4th Amendment’s prohibition on unreasonable search and seizures.

In the meantime, Carl dabbled in politics and by 1967, he too had become a prominent public figure. That year, Carl Stokes became the first Black mayor of Cleveland and of any major metropolitan city in the United States. Carl won re-election in 1969 but decided not to run again in 1971. In 1972, he became the first Black news anchorman in New York City before returning home to his roots in Cleveland in 1980. From 1983 to 1994, Carl Stokes served as a municipal court judge in Cleveland. He was then appointed as the U.S. Ambassador to the Republic of Seychelles by President Bill Clinton in 1995. Unfortunately, one year later in 1996, Carl died of cancer.

Not to be outdone by his little brother, Louis Stokes also made a name for himself in politics. Just one year after Carl was elected Mayor of Cleveland, Louis became the first Black U.S. congressman from the State of Ohio in 1968. He represented his congressional district for 15 consecutive terms (30 years).

During his tenure in the U.S. House of Representatives, Congressman Stokes was one of the founders of the Congressional Black Caucus (CBC) and served as chairman of the CBC for two consecutive terms. He was the first Black representative to chair the House Intelligence Committee and to serve on the influential House Appropriations Committee, which oversees all federal spending bills. Representative Stokes also chaired the House Ethics Committee and the Special Committee assigned to investigate the assassinations of President John F. Kennedy and Martin Luther King Jr.

Two years after his brother Carl died, Louis Stokes announced his retirement from Congress in 1998. After his retirement from public service, Congressman Stokes returned to his roots as a lawyer and became senior counsel at the Cleveland-based law firm of what was then Squire, Sanders & Dempsey (now Squire Patton Boggs).

Throughout his life, Louis Stokes was committed to the Law School and was an inspiration to students, alumni, faculty and staff. A prime example of his commitment to the Law School was his establishment of the Louis Stokes Scholarship Fund for minority students seeking law degrees. I know first-hand of his commitment because I was one of those students. As a Black C|M|LAW student seeking my juris doctorate, I was a past recipient of the Louis Stokes Scholarship Award. This is how I first met the Honorable Louis Stokes. He was giving back to the students and to the law school that thought him how to “*Learn Law, Live Justice.*”

Even in his later years, Congressman Stokes was still focused on the law and social justice issues and remained committed to the Law School by serving on its the Board of Visitors until his death in 2015 due to cancer. He was 90 years old.

If Louis Stokes and his brother, Carl, are not the embodiment of what this Law School is all about, then no one is. Both brothers were trailblazers and helped open the door and create a path for many Black lawyers and politicians to come. For these reasons and others, the Law School should be renamed after the Stokes brothers or at least after the Honorable Louis Stokes.

C. Judge Ann Aldrich (submitted by Judge Patricia A. Blackmon’75)

In 1968, Ann Aldrich came to CSU Cleveland-Marshall College of Law to teach constitutional law. During her 12-year tenure, she was a powerhouse for the Law School. Consequently, at this historic moment in the school’s history, Cleveland State University should consider renaming its Law School after the Honorable Ann Aldrich.

During her tenure at the Law School, Professor Aldrich gave so much to the school and improved its reputation internationally. She was a legal advisor to the Moot Court Team

and the Black American Law Students Association in the 1970s. She developed many moot court competitions over the years, including the Frederick Douglas Moot Court Competition and the International Moot Court Competition.

Ann Aldrich might have been the first professor at CSU Cleveland-Marshall to develop various Institutes of Law, such as the Environmental Law Institute and the Appellate Law Institute. Through the Appellate Law Institute, she wrote appellate briefs for the late Stanley Tolliver and John Carson. She sued Republic Steel for violating environmental law with its coke ovens.

There is so much more, but one of her greatest accomplishments was the Legal Career Opportunities Program, affectionately referred to as LCOP. This program continues to this day. Many law students are admitted to the Law School through this program who would not have had the opportunity.

Professor Aldrich once said that when she approached Dean Craig Christensen about the lack of students of color at CSU Cleveland-Marshall College of Law, he pushed back with the retort that there were none interested. She then told him that she would be willing to bet that many of the Black teachers in the public schools in the Cleveland area probably dreamed of being lawyers but were discouraged because of the lack of opportunity and availability, and thus they became teachers. There are many examples which proved her case. The following come to mind, Judges Una Keenan and Mabel Jasper, and attorney Betty Pinkney to name a few. She then explained to him that she knew where there were plenty of eligible graduates for the Law School. Ann Aldrich, Bruce Elfin, and David Forest set out to visit historically Black colleges and universities in the south. Judge Patricia A. Blackmon was one of those students chosen from Tougaloo College in Tougaloo, Mississippi to attend CSU Cleveland-Marshall in 1972.

In 1964, Ann Aldrich worked on the United Church of Christ and Tougaloo College lawsuit against the Lamar Life Insurance Company, who owned one of the local television stations in Mississippi, for race discrimination and sought to deny Lamar its F.C.C. license-renewal. They eventually won that case before United States Supreme Court. She went to Jackson, Mississippi to participate in the trial of that case at the request of Everett Parker of the United Church of Christ. He would later say it was the best decision he ever made. Justice Warren Burger would say that case was the best decision of his judicial career.

Ann Aldrich also opened her home to many students of color who came to the Law School. She was instrumental in making sure that James Douglas was recruited as a professor of law, adding him as maybe the second African American professor at CSU Cleveland-Marshall- College of Law. He eventually became the Dean at Thurgood Marshall School of Law at Texas Southern University. Ann Aldrich's greatest accomplishment was later becoming the first female Federal judge at the United States District Court for the Northern District of Ohio.

Finally, Ann Aldrich taught many lawyers constitutional law, mass communications law, and was probably the first in the country to teach a course she wrote called Black

Jurisprudence in America. That course started with Rev. Dr. Martin Luther King's letter from the Birmingham Jail. Judge Blackmon was her law clerk at the time and worked on the draft of the course.

Renaming the Law School after Judge Ann Aldrich would truly be an honor for the school, the Cleveland community, the State of Ohio, and the nation.

D. Cleveland State University College of Law (submitted by P. Kelly Tompkins '81)

Since 1969, CSU Cleveland-Marshall College of Law has been affiliated with and an integral part of Cleveland State University. Appropriately, the formal name of the Law School on its website, marketing material and related literature reaffirms this affiliation: "Cleveland-Marshall College of Law of Cleveland State University." While many stakeholders understandably refer to and know the law school simply as "Cleveland-Marshall," our 50 plus year historical tie to Cleveland State University is undeniable and inextricably linked to our identity as a law school. Indeed, we are Cleveland's Law School.

As the debate over whether to remove the reference to Chief Justice John Marshall in our name and various renaming options are evaluated, serious consideration should be given to shortening our name to "Cleveland State University College of Law" for the following reasons:

- By tying the name of the Law School to an institution (in this case Cleveland State University) rather than an individual, we would effectively eliminate the potential for any further, future controversy that can occur with the use of an individual's name irrespective of that person's historical significance or current prominence in the local community. With the exception of a distinguished few, such as Justice Thurgood Marshall who powerfully reflects our social justice heritage and ethos as well as the strength of our historically diverse student body, any other individual naming option will likely risk alienating some segment of our stakeholder base at some point in time.
- While the name Cleveland State University College of Law may at first blush seem too generic, in reality it would be a very unique name as no other law school in the country would carry this name. On the other hand, even though adopting Justice Thurgood Marshall's name is a compelling if not convenient choice, we know there is already at least one other law school bearing the name of Justice Thurgood Marshall (i.e. Thurgood Marshall School of Law, Texas Southern University).
- If we were to change our name to Cleveland State University College of Law, we would not foreclose other naming options that may arise in the future. Indeed, we would preserve the flexibility of considering and adopting at a later date another name especially if a major donor were to come forward with a significant gift coupled with naming rights. If this were to happen, the transition to a new name

would be logistically easier and less controversial assuming appropriate diligence was done with respect to the donor's proposed name.

- The ease of implementing the “Cleveland State University” name alternative is compelling as the affiliation with the overall university is already well known thus making the marketing and branding effort relatively straightforward.
- In view of the ongoing work of exploring various alliances or partnerships with the University of Akron School of Law (let alone the prospect of a future merger), making the change to Cleveland State University College of Law could work as a “placeholder” pending the outcome of these collaborative discussions which might, albeit not near term, present new naming considerations not presently foreseeable.
- By more affirmatively highlighting our ties to Cleveland State University, we may be better positioned to secure financial assistance and political support from the university in rolling out the marketing communications effort that will be needed to support any new name or “brand” strategy that may ultimately be selected.

E. Conclusion

Any one of the aforementioned names would serve as an excellent and appropriate replacement for the law school's current namesake. While, in our judgment these names offer some of the best options for change, there are nonetheless many other great alternatives. The only option that would be unacceptable is if the law school were retain its current namesake and continue to honor and commemorate Chief Justice John Marshall.

V. Why We Should Make this a Teachable Moment

Professor Reginald Oh, James P. Sammon '94, P. Kelly Tompkins '81

Background and Context

In July 2021, our Law School received a petition requesting that the name of the Law School be changed because of John Marshall's connection to slavery. In response, a Law School Name Committee was formed comprised of a diverse group of faculty and alumni. In order to more fully inform all internal and external stakeholders, a series of educational forums were held with several nationally recognized guest speakers. Each of the speakers were affiliated with prominent educational institutions who have dealt with similar "name" related challenges.

After completing these forums, the Law School Name Committee was charged with preparing a comprehensive document that presents the petition; summarizes the history of the Law School whereby it became known as the CSU Cleveland-Marshall College of Law; the formation of the Law School Name Committee; the experience of other higher education institutions dealing with challenges to their name; and recommended guiding principles for decision-making to ensure broad stakeholder engagement. Importantly, the Committee report will also contain arguments in favor of not changing our name as well as arguments in support of a name change along with various potential naming options.

Our charge is to ensure that no matter what is ultimately decided with respect to our Law School's name, we should make this a permanent teachable moment. We do not want to see this "name issue" become a "one and done" moment in time. Moreover, the complex legacy of Chief Justice Marshall should be documented and appropriately remembered to preserve this moment in the history of our Law School.

We believe it is fitting to ensure there are lasting lessons learned not only about John Marshall's contribution to this nation's founding and the creation of its body of jurisprudence but as well from his controversial ownership of slaves. Ideally this controversy can be a springboard to discuss and think about the broader issues of law, culture, racial equality, and social change and in so doing engage a broader audience well beyond the Law School community.

To that end, we propose to create:

- **A dedicated, appropriate and poignant area or place** in the building to physically recognize and highlight for future generations of students the complex legacy of Chief Justice Marshall. Accordingly, this area would not only reflect his contributions to the development of constitutional law but equally so this area would acknowledge the stain to his legacy from his ownership of slaves and how these competing considerations impacted the Law School's name change process and ultimate decision. If the Law School does change its name, we recommend there also be a dedicated area that documents how and why the new name was

selected for the benefit of both the current Law School community and future generations of students. Simply put, we must not only document and celebrate this important moment in our school's history but do all we can to learn from it.

- **An ongoing conversation:** We do not want this controversy to end the dialogue once a decision is made about the Law School's name. We want this moment to create an ongoing, enduring dialogue about the broader issues of how we process and reflect on our history particularly when it impacts current societal issues and controversies. Our overriding goal is to encourage, learning, knowledge, and understanding, consistent with this Law School's core values and mission – Learn Law, Live Justice.
- **A Constitutional Law Center** focused on exploring issues of constitutional law, racial justice, and social change. This Center may do the following:
 - Consider seeking a joint venture with the John Marshall Institute at Marshall University in West Virginia. This venture could be modeled loosely after the initiative recently begun by George Mason University in focusing new research on the lives of its namesakes's enslaved persons. Their project, with notable student involvement, seeks to foster a fuller comprehension of the consequences of slavery and thus bring a more complete and true understanding of issues of race in the United States. Such a venture would be in line with and supportive of our school's mission – Learn Law, Live Justice.
 - **Hold a bi-annual conference or symposium** asking provocative questions to stimulate an informed discussion about law, culture, racial equality, and social change, and about how we confront and understand this nation's complex history.
 - The conference will be multi-disciplinary, involving the entire CSU community, which includes other departments, faculty, staff, and students.
 - Format of bi-annual conference: A conference which may include 2 or 3 panel discussions along with a nationally recognized keynote speaker. We want to especially include CSU's Urban Affairs, Political Science, Sociology, History, Business, and Ethnic Studies departments.
 - The Law School is well positioned as a citadel of free speech and inquiry. We may seek partnerships with local community organizations such as the City Club, Bar Associations (CMBA, Norman Minor Bar), the Diversity Center of Northeast Ohio, and the Facing History organization to expand our reach and perhaps solicit sponsorships.
 - Audience and reach: We want to reach a national audience and enhance this Law School's reputation as a national facilitator of these complex and challenging issues.

- **Hold Periodic Forums or Panel Discussions:** We want to periodically hold smaller forums or panels to address current or prevailing hot topics about these broader issues.
- **Foster Student Initiated Dialogues:** We want to encourage student participation and leadership in this ongoing conversation. We envision a student organization or committee helping to develop programs about the broad issues of racial equality and social justice. For example, The Black Law Student Association and/or the Dean's Leadership Fellows group could be considered.
- **Promote Leadership and civic engagement:** Our ongoing dialogue seeks to promote good leadership on these issues. A good leader learns how to listen and synthesize conflicting opinions and views, then take appropriate and effective action. We also believe in the vital role of the "citizen lawyer" who is not only competent in their chosen practice area but is engaged from a civic standpoint in their communities promoting civil discourse particularly with respect to matters of legal, social, cultural and political controversy.
- We envision faculty (perhaps from the Law School and College of Urban Affairs) and students working collaboratively to encourage civil dialogue and civic engagement with respect to the most pressing issues facing this nation, the state of Ohio, and the Cleveland metropolitan area.