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**BROADSIDE: 3C CORRIDOR GOOD FOR OHIO?**

SEE PAGE 7

**LAW LIBRARIANS AND STAFF GEARED UP FOR SPRING SEMESTER FINALS PERIOD**

Law Library Associate Director Jan Novak details the library's finals preparation options a month in advance to help you plan

SEE PAGE 3



**GRADUATION CHALLENGE**

SEE PAGE 6

**MEET DAVID GENZEN**

SEE PAGE 4



**WHAT DID THE FOUNDERS ACTUALLY BELIEVE?**

SEE PAGE 10

**LIBERTARIAN CONTRARIAN: END GOV'T ECONOMIC DEVELOPMENT** SEE PAGE 6



**ALL THE VOTING INFORMATION YOU NEED**

Details on the new website targeting student voters, [www.CollegeVoteOhio.com](http://www.CollegeVoteOhio.com).

SEE PAGE 5



# THE GAVEL

VOLUME 58, ISSUE 5

THE STUDENT NEWSPAPER AT CLEVELAND-MARSHALL COLLEGE OF LAW

MARCH 2010

## BLSA Frederick Douglass Moot Court team makes victorious return *Teirra Ndegwa named national Best Oralist*

By LM Clinton  
STAFF WRITER

Frederick Douglass once said, "If there is no struggle, there is no progress." With their quick rise to success at the national moot court competition named after Douglass, Cleveland-Marshall's Teirra Ndegwa and Eman Dughly proved to be both the exception and embodiment of this rule. The duo qualified for the national competition in the first year C|M|Law fielded a team in more than a decade, and Ndegwa won honors as Best Oralist even though she competed alone at nationals.

The Frederick Douglass Moot Court Competition, hosted by

the National Black Law Students Association, is one of the largest moot court competitions in the country, with over 100 participating schools. On March 13, Frederick Douglass competition judges chose Ndegwa Best Oralist, over law students from better-known schools like Harvard, Columbia, and Georgetown. Ndegwa and Dughly reached the national competition in Cambridge, Massachusetts by winning second runner-up at the Feb. 20 Midwest regional competition.

One of the unique features of the Frederick Douglass Moot Court Competition is that some of the teams consist of non-traditional students

SEE **BLSA** PAGE 4

## Associate Dean Crocker named C|M|Law Interim Dean

Cleveland State University President Ronald Berkman named Cleveland-Marshall Associate Dean Phyllis Crocker the law school's Interim Dean March 1, to fill-in for now-Interim Provost Geoffrey Mearns. President Berkman also announced his appointment of Peter Carfagna, former candidate for Interim Dean, as an Executive-in-Residence. Carfagna will teach sports law, business of sports, and sports management, and will consult with the university administration on financial matters, as well as raise funds for athletic programs.

Dean Crocker received her B.A. from Yale University and her J.D. from Northeastern University. She clerked in the U.S. Court of Appeals for the Ninth Circuit, worked in a small plaintiff's-side firm in Chicago, and as Staff Attorney for the Texas Resource Center, she represented death row inmates appealing their convictions and sentences.

She came to CIMILaw in 1994 and has taught Civil Procedure and various criminal law courses. Crocker became Associate Dean for Academic Affairs in 2006. Dean Crocker plans to continue teaching in her new position.

### FACULTY HIRING UPDATE

## Pair of new professors arrives fall semester *Majette will teach health law, Plecnik tax and estates*

By Jillian Snyder  
STAFF WRITER

Next fall, Cleveland-Marshall will welcome two new professors to the full-time faculty: Gwendolyn R. Majette, who will teach multiple courses in the health law area, and John T. Plecnik, who will teach tax courses and Estates & Trusts. Prof. Kevin O'Neill, Chair of the Faculty Appointments Committee, shared some notable biographical information on these two young professors, in a recent interview with *The Gavel*.

Majette graduated from Emory University with a B.B.A. in Business Administration in 1989. She earned her J.D. from George Washington University School of Law in 1993 and her LL.M. in Global Health (with distinction) from Georgetown University Law Center in February 2009. Serving on Capitol Hill for the last two years, Majette has been deeply immersed in the legislative battle over health care — first as a Fellow on the Health Subcommittee of the U.S.

SEE **NEW PROFS** PAGE 5

## Graduate shares vivid account of missionary experience during Haitian earthquake

By Jason Csehi  
STAFF WRITER

2009 Cleveland-Marshall graduate and member of the Ohio Bar Vadim Levtonyuk got more than he bargained for when he led Ukrainian, Lithuanian, and Russian missionaries from the Cleveland area on a mission trip to Haiti in January. The 10-day mission was nearly finished and the group of 49 was preparing to travel back to the United States when disaster struck in the form of the January 12 earthquake. Levtonyuk, former president of the Christian Legal Society, discussed his experiences in front of about two dozen attendees on February 17.

Organized by the Christian Legal Society and the Catholic Lawyers Guild, "Practicing the Faith: The Haiti Experience" offered Levtonyuk a chance to tell about the needs in Haiti and how his faith was strengthened.

The missionaries who participated in this trip came from families who had fled from religious persecution in the former Soviet Union because they are members of the Pentecostal denomination. They had traveled to Haiti's mountainous northern region, where the Christian Gospel is spreading and congregations are growing, to construct a church for their fellow Christians. Levtonyuk's group funded the trip themselves and also raised

money for the Haitian believers' new church.

The group's difficulties started with their journey to the worksite, which involved a 20-hour truck ride that featured half the team pushing one truck

through the mud.

"The living conditions at the worksite were less than ideal," said Levtonyuk.

"Some team members didn't shower for a week" due to the lack of running water. Nevertheless, the group persevered and completed most of the project, leaving only a small part of the roof to be finished.

The team returned to capital city Port-au-Prince to prepare to leave as scheduled. They separated because they only had one pickup truck to transport the entire group, and they planned to meet back at a local pastor's house before going to the airport the next morning.

Levtonyuk recalled that he was not initially cognizant of the earthquake. While looking out of the rear of a truck bed and riding atop luggage, he felt the truck halt. He then heard an indescribable



TOP: Vadim Levtonyuk (standing to the left, wearing an orange shirt, dark vest, and pants) and his companions wait to leave Port-au-Prince airport. BOTTOM: Dozens of the thousands of buildings that collapsed in Port-au-Prince. Photos courtesy of Slavic Full Gospel School.

din, not knowing what it was until the same sound accompanied the tumbling of an apartment building behind the truck, blocking the road. He heard his driver praising God that they were alive as he emerged from back of the truck, when he saw another building

SEE **MISSION** PAGE 8



# Students and faculty bringing accolades to C|M|Law, class of 2010 should remain optimistic about job search



Phyllis Crocker  
THE DEAN'S  
COLUMN

As you know, a few weeks ago President Berkman appointed Geoffrey Mearns, Dean of Cleveland-Marshall, as the Interim Provost for the University. This was unexpected, and a bit unnerving for all of us. But, it speaks very well of what President Berkman thinks of the law school and Interim Provost Mearns. The law school embarked on a short and intense process to identify candidates to recommend to President Berkman as the Interim Dean. Faculty, staff, and students participated in that process. That fact—that faculty, staff, and students were part of the process—is one of the terrific and distinctive hallmarks of C|M|Law—we are an inclusive community that values different perspectives. As a result of that process, it was my privilege to be appointed by President Berkman to serve the law school as Interim Dean.

It is an honor to be the Interim Dean of C|M|Law because exciting things are happening here. Students, faculty and staff are engaged in many challenging and rewarding projects. Here are just a few examples from the past few weeks.

Students are achieving excellence in all sorts of activities:

Our ABA National Appellate Advocacy

Competition team is headed to the National Competition in Chicago next month and just last month, our National Moot Court team placed in the top eight in the country in the National Moot Court Competition in New York;

Our BLSA team competed in the Frederick Douglas Moot Court Competition and advanced from the regional to the national competition, where Teirra Ndegwa won Best Oralist;

Two of our students were chosen by The Legal Aid Society of Cleveland as Summer Associates—this is a highly competitive

program;

The Cleveland State Law Review published an article on the Second Amendment, written by one of our graduates, that is being cited in briefs in a case before the United States Supreme Court;

The newly created Global Business Law Review will host its inaugural symposium, "How the International Community Responded to the Global Financial Crisis", on April 9;

Graduation Challenge, a project of

our graduating students each year that encourages students to make a commitment to support the law school financially, is engaged in creative fundraising—from the bake sale last week to the Art Party on April 16.

Our faculty is engaged in cutting-edge scholarship:

**"I know getting jobs is a principal concern for all our students. Our Office of Career Planning is doing an extraordinary job working with each student...Despite the nationwide predictions of low placement rates for the class of 2009, our placement rate was just a few percentage points below the class of 2008. That is great news for our graduates and augurs well for this year's graduates, as well."**

-Dean Crocker

Lolita Buckner Inniss was invited to be a presenter at the UCLA Law School Critical Race Theory Symposium;

Mark Sundahl just had his article, "Space Tourism and Export Controls: A Prayer for

Relief", accepted by the *Journal of Air Law and Commerce* (published by SMU);

Milena Sterio will present a paper on piracy at a symposium on the same topic at American University Law School this spring, and her paper will be published in the *American University Law Review*.

Our staff keeps expanding opportunities for students to learn and work in new ways in new places.

We established three new externship placements in the last month: the General Counsel's Office of both

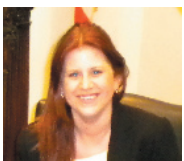
Parker Hannifin and Medical Mutual, and the Law Director's Office in Sheffield Lake. These add to the many existing externships, all of which offer students the opportunity to receive academic credit for working in a legal setting—which means learning about the practice of law by being part of it, not just reading about it.

I know getting jobs is a principal concern for all our students. Our Office of Career Planning is doing an extraordinary job working with each student. In February, all law schools report information on the job placement for the prior year's graduating class. Despite the nationwide predictions of low placement rates for the class of 2009, our placement rate was just a few percentage points below the class of 2008. That is great news for our graduates and augurs well for this year's graduates, as well. I know it is a struggle, but our OCP staff is working tirelessly with and for our students and graduates.

All of these examples are ways in which we, as members of the C|M|LAW community, are actively engaged and excelling in the study of law and service to our community. These are the reasons why **Learn Law. Live Justice.** truly captures the essence of what our law school is about.

During my tenure as Interim Dean, I will work to ensure that we continue to exemplify **Learn Law. Live Justice.** We will continue to attract academically strong and diverse students, to expand opportunities for our students to become ready to practice, to support our faculty's scholarly pursuits and commitment to rigorous education of our students, to engage our graduates—in short, to be part of the legal community. I look forward to working with all of you in these endeavors.

## Barrister's Ball was fun, but more is on the way



Lindsay Wascko  
SBA  
PRESIDENT'S  
COLUMN

"Time flies when you're having fun." I always hated that phrase. Time flies even when you are not having fun, it just goes much faster when life is fun. As spring break becomes a distant memory nestled away in the back of our minds, the fact that comes to our frontal lobes is the realization that the semester will be over in six weeks. In less than two months, the graduating class will walk across the stage and receive their diplomas. This makes me wonder, where is that darned "easy" button when you need it? The only button I feel getting pushed is the "panic" button!

At any rate, hopefully everyone enjoyed the week off. If you are anything like my friends, you were partying in Cancun like it was 1999. But if you are like me, you remained in the "law student frame of mind" and tried to catch up on everything procrastination had taken over the weeks prior to leading up to break.

Speaking of the past, I would like to thank all who attended Barrister's Ball. First, I would like to acknowledge all the hard work that my favorite little Canadian put into the event to make it so memorable. LuLu, you did a fantastic job! I am starting to believe you were an event coordinator in a past life. Secondly, I would like to recognize the three recipients of the SBA Leadership

Scholarship that were announced at Barrister's Ball: Maya Simek, Teirra Ndegwa, and Kevin Kovach. These students have built and continue to build the reputation of Cleveland-Marshall by balancing academics and organizational and/or community involvement. Third, the recipients of the faculty and staff members of the year awards were also announced at Barrister's Ball. It comes as no surprise that the recipients were Prof. Kevin O'Neill and Jessica Matthewson, respectively. Finally, I would like to personally recognize Justin Rudin as C|M|Law's favorite dancer. Justin, you got the moves that make girls swoon. Congratulations to all the deserving award recipients!

As the semester nears its end, the SBA will hold its annual fundraising event. This year, the fundraising committee decided to host a "Game Night." The main event will showcase a Family Feud challenge. If you are interested in representing your class, the SBA is looking for five-person teams comprised of members from each year. We will also hold a raffle for a chance to win an iPod donated by event sponsor BarBri.

The event will take place on Friday, March 26 at the Harry Buffalo on East 4th Street. Tickets are \$10 in advance or \$15 at the door, and can be purchased at the SBA office in the cafeteria all week.

Finally, as heartbreaking as it will be to pass the torch, elections for the 2010-11 SBA Executive Board and Senate are rapidly approaching. Elections will be held during the second

and third week of April. At this time last year, it was never my intention to run or be elected as president of the SBA. However, I would have regretted passing up this opportunity. I just want to say that next year's president can only be so lucky to have an Executive Board like the one I had alongside me this year.

As a final note, while I am on the subject of my absolutely amazing Executive Board, I want to congratulate Kevin Marchaza and Samantha Vajskop on making it to the Moot Court Nationals. Good luck and bring back a win for Cleveland-Marshall!

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### SBA Game Night Fundraiser

Friday, March 26, 8:00 p.m. at Harry Buffalo on East 4th Street

Featuring:

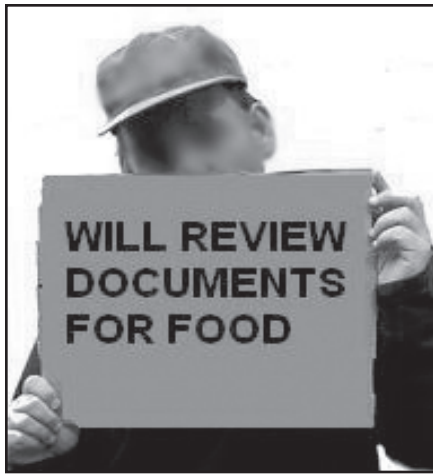
- "Family Feud" with "families" of five
- Pictionary
- Pass the Popcorn
- Arm Wrestling
- Twister

Tickets: \$10 presale, \$15 at the door

For more information:

Rebecca Petrulis, [rpetrulis@law.csuohio.edu](mailto:rpetrulis@law.csuohio.edu)





## Remain persistent with job searches

By Jennifer Blaga

DIRECTOR, OFFICE OF CAREER PLANNING

### THE CAREER CORNER

*Because of the current economic climate, many 1Ls may not be able to find summer legal work, and many of those students may not be able to afford to take summer law courses. What are some things those students can do to improve their skills during a summer away from consistent work in the law?*

Students who are unable to secure law-related opportunities and who cannot afford to take summer classes between their first and second years should continue to take advantage of opportunities to build upon their network in the legal community. Take advantage of volunteer opportunities, be it through the law school or the Cleveland Metropolitan Bar Association, or even with specific organizations you are interested in (with or without a legal component). Reach out for informational interviews with practitioners in fields you are interested in (you can contact our alumni association or reach out to alums yourself in firms/companies). Keep an eye out for emails from the Office of Career Planning throughout the summer, as well as postings on Symplicity, because even through the summer, employers look for students to work.

The bottom line is DO SOMETHING—do not take your summers “off”. Employers recognize that the job market is challenging and all of you have bills to pay, and it goes a long way in the initiative, work ethic, and responsibility departments if you work in some capacity.

*What can graduating 3Ls and 4Ls who are not in the top 10-percent of their respective classes do to find post-bar exam employment in the current climate?*

The advice for our upcoming graduates is very similar to our advice for 1Ls: network, volunteer, conduct informational interviews, and stay in touch with OCP so we know where you are when new entry-level jobs come to us. Many of you will need to consider offering to work as a law clerk (for law clerk-level pay) or even a legal assistant in order to continue your training. Think outside the box and your comfort zone.

For the time being, many law school graduates need to view their first jobs as stepping stones. Don’t let that lower paying job in a law firm practice that you aren’t interested in discourage you. Those opportunities will teach you lawyering skills and acclimate you to law firm culture.

Be open to temporary and contract work. We get requests from law firms for litigation document review as well as other special projects, and you should also contact local legal recruiters to get on their “list” for document review.

## Objective and persuasive writing are quite similar

Legal Writing Professor Karin Mika

THE LEGAL WRITING COLUMN

*Why does the transition from objective writing to persuasive writing in Legal Writing seem so difficult?*

There are two primary reasons that the transition from objective writing to persuasive writing seems so difficult. One reason is that there really is not enough mastery of objective legal writing before the transition is made. The other reason is that when students do objective writing, they are really trying to figure out the proper format without seeing the full picture of how objective writing fits into the litigation spectrum (e.g., memos tend not to be written in isolation but in anticipation of solving a legal issue that may require a later persuasive document).

Both of these reasons stem from the same complication – it takes a while to become acclimated to analytical thinking and the overall understanding of how we even derive a rule before one

can write competently and coherently about a legal topic. Then, just as students start to understand how cases fit together, the curriculum in Legal Writing shifts from objectively looking at the cases to using cases to support arguments.

There really is no more difference between objective memo writing, exam writing, motion writing, and appellate brief writing than there is between setting out causes of a war in a history essay and arguing which side was right. The difference is context. Whenever we have no context for a skill, we must try to do it by a step-by-step diagram (imagine going through the steps of learning how to drive a car, ride a bike, or even bake a cake). When we do that, then we cannot “feel” the similarity between related skills, and thus the two skills feel entirely unrelated (e.g., all word processors and web browsers do the same things, but it sure doesn’t feel that way whenever there is an upgrade!).

Of course, the solution to this feeling of being lost would be to slow down what is taught until first-year students develop more of a context for

using legal analysis (I, personally, think that most first-year students do not really start really “getting it” until the second semester). However, the reality is that first-year students must be capable of providing some type of necessary legal skill to employers by the end of the first year. Thus, it is impossible to eliminate a lot of the seemingly “in the dark” activities that go on in the first semester of law school, and these must be done in order to have any skills and experience at all to be able to draft documents that might be required of a law clerk.

Thus, it is true that persuasive writing seems to be much different from objective writing, but the reality is that it really is not – at least in terms of including the necessary components that one would find in any type of legal writing. The object is to continue on not only trying to identify the patterns (and their similarities) in all types of legal writing, but also to look at the writing in the broader context of where it fits into the bigger picture of the entire field of legal study and legal practice.

## Ask the Law Librarians: Answers to your questions Exam period information in advance to help you prepare

By Jan Novak

LAW LIBRARY ASSOCIATE DIRECTOR

*Dear Law Librarian - We are past the halfway mark and heading for finals, just as the snow melts, the temperatures start to climb, baseball season gets underway and basketball heads for the playoffs. No distractions, right? What can you do to help me maintain my focus?*

We’re glad you asked, and while there is plenty we can do for you, please first take some advice on what you can do for yourself:

- Start polishing up those outlines now: the review of material you covered early in the year may reinforce the learning you are doing in the final weeks.
- Pay really close attention to those areas your professors emphasize as critical – usually a sign that you’ll see them at exam time.
- It’s never too early to look at past exams given by Cleveland-Marshall faculty, an exclusive online service for our students.

Select “Services” from the right frame of the Law Library’s home page to get the link for the Past Exams database. If you don’t find the exam or professor you are looking for from the web site, ask at the Information Services desk to determine if the library has a print copy available.

*It is too tempting to do anything but study if I’m at home. Are you open longer hours for exams?*

Extended hours during study and exam week give you more time to concentrate on your studies on campus. Beginning April 28 and running through May 12, we open at 7 a.m. Monday through Friday, closing at midnight Monday-Thursday and 10 p.m. on Friday. On the weekends, we are here for you Saturdays from 9 a.m. until 10 p.m., and on Sundays from 10 a.m. until midnight.

*Do you have any books or other*

*resources to help me prepare?*

Do we ever! You’ll find resource guides on preparing for exams and study aids on our web site that will help you locate books and DVDs on specific legal subjects as well as books on exam writing techniques. We shelve most of these materials in Room A066 and you are welcome to borrow them. If the circulating copies are already out, ask at the Information Services desk for help in finding a reference copy. As a C|J|Law student, you also have access to the entire library of CALI lessons and online tutorials



on hundreds of legal topics, including exam writing, as well as substantive black-letter law issues. To refresh what you already know, listen to an 11-minute CALI podcast from Prof. Jennifer Martin: “Top Ten Tips for Successfully Writing a Law School Essay”.

*How do I get a study room?*

Study rooms fill up during reading week and become limited to the extent that they are used for special exams once the testing begins. Two or more students may reserve a study room for up to three hours no more than once per day. Take advantage of the opportunity to sign up 72 hours in advance at the Law Library’s front desk, or 24 hours in advance by phone at 687-2250, and make learning a group effort.

*Am I allowed to eat in the Library?*

Of course you are – but remember that many of your colleagues

might be hyper-sensitive this time of year to messes, odors and disruptions. Please act accordingly! Food and beverages are permitted in the Law Library, but not in the computer lab. Please clean up after yourself. If you spill something and cannot clean it up yourself, please contact the library staff.

*Can you keep the library quiet for me?*

SHHHH! There are designated quiet areas in the basement, atrium and second floor levels of the library. There are also areas which are simply acoustically impossible to keep quiet (the atrium areas on all levels) and areas where we expect conversations to take place (the front desk, the student lounge, designated study rooms, and the Ohio room). However, whether noise is specifically discouraged or tolerated out of necessity, we wish everyone would tone it down during study and exam weeks. Take your phone calls to the lounge or outside the library! Also, remember that study rooms are not soundproof, that you can whisper to someone sitting across a table from you, and that long, animated conversations with colleagues and staff around the front desk carry throughout the first floor. During the exam period, The Golden Rule rules!

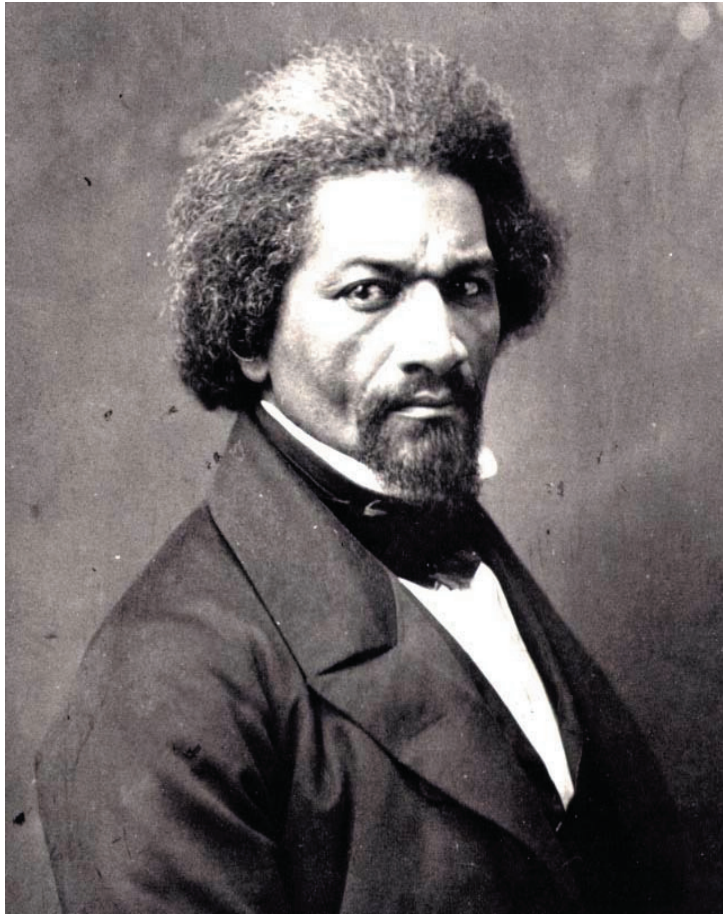




## BLSA

CONTINUED FROM PAGE 1

who, although qualified, are unable to participate in the traditional Moot Court experience because of work and family commitments. Ndegwa, a 4LE, is a perfect



example of this type of student. She is the mother of a six-month old infant, a wife, a law clerk for Dominion East Ohio Gas, a contracts teaching assistant, and a dual degree student. In September, just two weeks after giving birth to her son, she was already researching and preparing for the team's moot court problem. "The problem came out on Sept. 15; my son was born on Sept. 30," Ndegwa remarked. She attributes her successful balancing act to unorthodox scheduling and time management. "My friends say that I always take on more than I can handle.

I'm driven."

Prior to this year, C|M|Law had not fielded a team in the competition since the 1990's. This year, student leaders, administrators, and faculty worked with Ohio Eighth District Court of Appeals Judge Melody Stewart to reestablish the team. Stewart is a C|M|Law alumna and former Assistant Dean.

Sandra English, Assistant Director of Admissions and Multicultural Recruitment and team co-coach, said, "Most moot court teams have alumni and an established network to help prepare them for a competition. We had to start from scratch with alumni. It started with alumni that Judge Melody Stewart recommended. We also worked with the Cleveland-Marshall Alumni Association and Prof. Carolyn Broering-Jacobs. Prof. Browne Lewis served as co-coach and helped the team strengthen their arguments. Prof. Jonathan Witmer-Rich was our Criminal Law consultant."

BLSA President Aja Brooks led the team rebuilding effort. She said that getting this year's team in place was a culmination of years of work by past BLSA leadership.

Brooks remarked, "At first, I spoke with other spoke with other National BLSA teams in the region to

find out what they did to get started. Prof. Lewis also offered guidance on how to get it done. Then I spoke with Prof. Gard and Dean Crocker. She sent info about how to get credit for participating in the Moot Court team. We made a proposal to the school and by fall it was approved."

By the fall semester, BLSA had its team of Dughly and Ndegwa in place. With no previous team against whom to gauge their success, the duo had an open view on expectations going into the competition.

Dughly said, "My goal was to work hard to produce the best brief and argument possible. I honestly did not know what to expect as a new team entering the competition amongst many veterans. It was an honor just to participate."

Ndegwa was also unsure how the team would do, but she did not rule out victory, and said, "I thought we would do okay. I thought it was possible that we would make it this far."

Now that the team has been re-established, plans are already underway to build on this year's success for years to come. According to English, information will be available in April for students interested in trying out for next year's team. With the foundation in place, current team members want future students to transform their instant success into a lasting legacy.

Dugly remarked, "I hope that the team's recent success will motivate others to participate in the Frederick Douglass Moot Court competition in the future."

Legendary abolitionist and civil rights leader Frederick Douglass, for whom the competition is named.

## An interview with Director of Technological Operations David Genzen Get to know the man who makes it possible for you to use Facebook during class

By Joe Fell  
ASSOCIATE EDITOR

At the risk of stating the obvious, technology and the internet have transformed life in law school and the way in which lawyers conduct their business. Imagine having to take notes by hand during a fast-paced lecture filled with crucial details, or writing an exam by hand and agonizing when a relevant statute or case pops into your head after you've already answered the question and left no room in the bluebook. As many students learned in first-year legal writing classes, conducting legal research without online resources can be much more time-consuming and does not allow the luxury of working from the comfortable confines of home.

Many students take these technological advantages for granted, and forget that there is a team of people working hard at Cleveland-Marshall to ensure students can spend time interpreting statutes and analyzing cases instead of troubleshooting technological problems. *The Gavel* recently had the opportunity to sit down with David Genzen, Director of Technology Operations at C|M|Law, to discuss the services that his department provides and to get a sneak preview of some of the technological upgrades coming to C|M|Law within the next year.

Genzen is no stranger to the rigors of law school, having graduated from C|M|Law in 1998. While a student, he had many professors who still grace the halls of C|M|Law, including Prof. Stephen Lazarus and Prof. Kevin O'Neill. Before attending C|M|Law, Genzen completed his undergraduate education at The Ohio State University and earned a Master of Library and Information Science degree from Florida State University.

Our conversation began by discussing the recent change to a new webmail system. Genzen said that the new system presents several advantages:

it is more efficient, uses less disk space, and is less of a drain on the email server. At the same time, Genzen reiterated that C|M|Law's webmail system was never intended to be a permanent solution and that students should still install a client such as Thunderbird or Outlook to handle their email. This will allow students to have access to all of their email at all times, regardless of whether they are connected to the internet. (*Editor's Note: The five minutes that I spent setting up and installing Thunderbird have been well worth it—having the ability to access email instantaneously without an internet connection is more advantageous than one may think!*)

Genzen also informed *The Gavel* that other webmail updates are coming in the future. One of the conclusions made following a recent technology audit by the university was that C|M|Law's technology department needs to collaborate more with the university's Information Services and Technology Division regarding email. As part of this, Genzen has been meeting with the university administration and other parties to design a new structure for C|M|Law's webmail.

One option currently on the table is using Google Apps to handle email; other higher education institutions like Case Western Reserve University use this option. Genzen stressed that the discussions are still in preliminary stages and that the decision is far from complete. However, he did say that this option would provide for several advantages, such as reducing the hardware costs involved with providing email and allowing alumni to permanently maintain their C|M|Law email accounts following graduation.

We also discussed the recent email outage that lasted for several hours earlier in the semester. Genzen stated that this was not caused by human error or a virus, but rather by the fact that one of the email server's hard drives failed and another drive appeared to be ready to fail.

Consequently, Genzen and his staff made the decision to take the email server offline and replace both drives, because the loss of another hard drive would have resulted in loss of email messages. He also indicated that there is no way to predict in advance whether a drive will fail. Genzen said his staff worked together to resolve the problem

as quickly as possible. He further stated that much of the credit for the department's accomplishments should go to his staff, which he described as "long-term" and "dedicated."

Our conversation progressed to the upcoming technological developments coming to the halls of C|M|Law in the near future. Genzen indicated that LB 205 will receive a full technology upgrade over the summer. Once this is completed, every classroom in the building will have presentation technology, culminating a process nine years in the making.

However, Genzen and his staff are not resting on their laurels, as they currently looking at ways in which they can upgrade this equipment in the future. Additionally, the computer lab printers will be replaced over the summer. Student technology fees will fully pay for each of these upgrades.

Genzen also shared some details about the upcoming Trial Courtroom Project. Construction on this project,



which will provide C|M|Law with a state-of-the-art facility in which students and local practitioners can practice courtroom skills, will begin this summer. This courtroom will have technology that is currently being used in courtrooms, including electronic evidence cameras and touch panel video screens for annotating evidence. Furthermore, this facility will have the technological capability to allow users to record their practices and competitions to hard disk for later review and study. More detailed information about this project, including an interactive picture, can be found on C|M|Law's homepage.

Genzen concluded the interview by saying he loves his job, enjoys participating in the life of the law school, and encourages students to visit him and his staff with any computer-related problems they may have. (*Editor's Note: As one who has taken advantage of their services on multiple occasions, I highly recommend their services!*)





## Secretary of State's new website aims to inform students about voting

By Kevin Kovach  
EDITOR-IN-CHIEF

"When I first arrived at Ohio University, I was initially given a provisional ballot, but back then, I had no idea what a provisional ballot was, and had no idea if it actually counted," recalled Will Tarter, Education and Outreach Specialist for the Ohio Secretary of State's Northern Region. Tarter grew up in Cleveland, graduated from Ohio University in Athens, has lived in Columbus, and is now back in Cleveland. He drew on his personal experience, as both a student and a college Resident Assistant who helped other students understand the voting process, to help build the Secretary of State's new [www.CollegeVoteOhio.com](http://www.CollegeVoteOhio.com) website. The recently launched site aims to provide college students all the information they need to be aware of their voting options.

*The Gavel* recently interviewed Tarter to discuss the Secretary of State's new initiative to engage students in the democratic process. Tarter explained how he drew on his student days to understand what his office should address.

"I thought to myself—now that I'm in the Secretary of State's office, how many people are in the same boat? When they move to a different location, they may be given a provisional ballot and may not know where their polling location is, or how to update their voter registration. I used my personal experience—the questions I faced when I moved to a different address—to help inform what we needed to build this website."

Besides his own experience, Tarter noted that the Secretary of State's office heard from student voters through its Voting Rights Institute.

"The Voting Rights Institute recognized that students sometimes face a variety of different questions that may not confront other citizens. So VRI sought to build a web-based resource where students, parents, and administrators would be able to find the information they need quickly and easily. The website, like our office, is non-partisan, and seeks to answer frequently asked questions surrounding both registering and casting a ballot. The site is not just about registration; it is also about voter education for different issues, including types of ID to bring on Election Day, how to request an absentee ballot, and how to find the right voting location."

Tarter reported that [www.CollegeVoteOhio.com](http://www.CollegeVoteOhio.com) has several user-friendly features. First, students can download printable PDF versions of a voter registration form and an absentee ballot request form. Second, Tarter said the site "features pages specifically for college administrators that offer suggestions on how to coordinate with different organizations across

campus during the election season."

He also stressed the interactive capabilities of [www.CollegeVoteOhio.com](http://www.CollegeVoteOhio.com).

"The website features a page for Resident Assistants, from which they can download bulletin board flyers to post on their floors. There is a feature called 'Resident Roundtable', where RAs can submit programs they have done on their campuses, and offer suggestions on how those programs can be implemented on other Ohio campuses. These programs, upon approval, will be posted on [www.CollegeVoteOhio.com](http://www.CollegeVoteOhio.com), and can provide a great example for other campuses to follow."

Tarter said the site even targets student organizations to help promote voting.

"There is a page for student organizations as well, where there will be a place called the 'Idea Forum', where student organizations will be able to submit voter registration and education ideas—in both text and pictures—that they have used to engage their fellow students. VRI will review the submissions, and upon approval, will post them on [www.CollegeVoteOhio.com](http://www.CollegeVoteOhio.com)."

The decision of where to register to vote is an important one for every student. Tarter urged students to be mindful that no matter where they vote, their ballots will reflect both local candidates and local issues. Accordingly, Tarter—and the Secretary of State—focus the choice of voting location on what a student considers to be "home". The law uses the synonymous term "domicile".

"If an Ohio student goes to school out-of-state, and considers that to be his or her new 'home', the student should look up the voter registration requirements for that state," Tarter advised.

"If a student is from Ohio and goes to school in Ohio, it is up to the student whether he or she considers the school to be 'home'. If the student considers his or her previous Ohio address to still be 'home', and does not consider a school address to be 'home'—in other words, the student intends to return to the previous address—then he or she may want to consider registering at the previous address.

If a student is not from Ohio, it is up to the student whether to consider the Ohio school to be the student's new

## NEW PROFS

CONTINUED FROM PAGE 1

House Ways and Means Committee from 2007-08, and then as a Legislative Fellow in the Office of U.S. Sen. Debbie Stabenow (D-MI) from 2008-09.

In addition to her Capitol Hill experience, Majette has worked at a Washington, D.C. law firm, counseled a Washington hospital, and studied the health care delivery system in South Africa. More recently, Majette has brought her real-world experience with health law into the classroom—teaching at the Health Law and Policy Institute at American University's Washington College of Law, at Florida Coastal School of Law, at Campbell University School of Law, and at Howard University, where she has taught at both the law and medical schools.

Plecnik is a summa cum laude graduate of Belmont Abbey College (2003), where he earned a B.A. in Accounting. He graduated cum laude from Duke University School of Law in 2006. While at Duke, Plecnik received the Faculty Award for Outstanding Achievement in Taxation and Estate Planning.

He also served on two different journals—as Staff Editor of *Law & Contemporary Problems* and as Senior Notes Editor and Inaugural Executive Board Member of the *Duke Journal of Constitutional Law & Public Policy*. While in law school, Plecnik worked as a summer associate in the Cleveland office of Baker & Hostetler during the summer of 2005.

He earned an LL.M. in Taxation from New York University School of Law in 2009; while there, he served as Executive Editor on the *NYU Review of Law & Social Change*. After graduating from Duke, Plecnik worked as an ERISA associate in the New York office of Thacher Proffitt & Wood from 2006-08. Since 2008, he has clerked for Judge David Gustafson of the U. S. Tax Court

in Washington. While performing those duties, Plecnik also served as an adjunct law professor during the summer of 2009 at Georgetown, where he taught a course titled *Tax Penalties & Tax Crimes*.

The Faculty Appointments Committee began its search back in August, with the specific goal of finding a health law professor and a tax law professor. After reviewing nearly 1,000 résumés, the committee singled-out 31 candidates for half-hour, face-to-face interviews held in Washington in early November. The committee then brought six of those 31 candidates to Cleveland for a full day of interviews and a "job talk", performed in front of the whole faculty.

The job talk is a 45-minute presentation, interrupted by frequent questions from the faculty, in which the candidate describes his or her current research. In assessing the job talk, the committee considered whether the candidate showed promise as a scholar and also whether the candidate appeared able to make a clear and compelling classroom presentation.

A few weeks after the Cleveland visits, the faculty debated the merits of each finalist and conducted two votes. The first vote expressed whether each finalist was acceptable or unacceptable for hiring. This year the faculty approved all six finalists as acceptable.

The aim of the second vote was to rank the acceptable finalists. It then became the Dean's job to negotiate with and sign the best available finalist for each job opening. Within a month of the second vote, then-Dean Mearns signed Majette and Plecnik.

"We are absolutely thrilled that they'll be joining our full-time faculty," Prof. O'Neill said.

Besides Chair O'Neill, the Faculty Appointments Committee included Profs. Dena Davis, Browne Lewis, Brian Ray, and Alan Weinstein, as well as student members Jeffrey Kaman and Andrew Czarzasty.



New professors Gwendolyn R. Majette and John T. Plecnik will join the C|J|L|W faculty in August.



'home'. If the student considers a previous address to still be 'home' and intends to return there, the student may want to look up the voter registration requirements and procedures for that other state."

As with numerous other voting issues, Tarter stressed that [www.CollegeOhioVote.com](http://www.CollegeOhioVote.com) addresses each of these issues, and sorts all issues into categories for easy browsing.

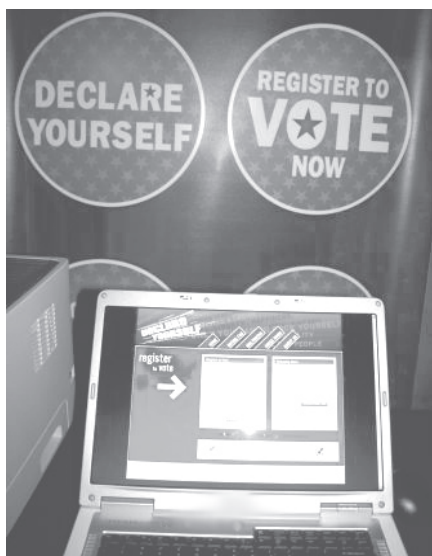
For students who wish to vote in Ohio, Tarter shared a few important details.

Any student who wishes to vote in Ohio must first know whether he or she meets the criteria as an Ohio resident eligible to vote in the state. According to Tarter, the Secretary of State has six criteria for establishing residency. The most important of all is that the voter must be a resident of Ohio for at least 30 consecutive days immediately before the date of the election. Most students will meet this criterion because fall and

spring semesters begin more than 30 days before general and primary election days, respectively. Other criteria are basic things like a citizenship requirement, age requirement, and a personal record free from voting violations and felony crimes.

Ohio's upcoming primary Election Day is Tuesday, May 4. Tarter shared important dates for the election. To be eligible to vote in this election, students must register by April 5. The Cuyahoga County Board of Elections is just down Euclid Avenue, at East 30th Street. Students who are already registered can begin voting by absentee ballot March 31, 35 days before Election Day. This includes all students—both out-of-county students voting from their old addresses and Cuyahoga County voters who want to avoid the lines at polling locations May 4. To receive an absentee ballot, a voter must complete an absentee ballot request form and ensure that the Board of Elections receives the form no later than 12 p.m. on May 1. A voter casting an absentee ballot by mail must have the ballot envelope postmarked by May 3.

Anyone with questions about voting can contact the Ohio Secretary of State Voting Rights Institute at 1-877-VOTE-VRI (1-877-868-3874) or the Cuyahoga County Board of Elections at (216) 443-3200.







**WHEN?** April 16th, 2010 @ 6pm  
**WHERE?** Cleveland State MC Building  
**WHAT?** Graduation Challenge with events such as:  
 - Art auction of student-created work  
 - Live music & skits  
 - Silent auction of locally donated items  
 - Libations, food, & a great time!  
**WHO?** Cleveland-Marshall Class of 2010  
**WHY?** Raise money for a great cause—people just like us! All proceeds will go to C-M scholarships & projects

E-MAIL [CMParty2010@gmail.com](mailto:CMParty2010@gmail.com) for more information or to get involved!

**CM|LAW**  
 LEARN LAW.  
 LIVE JUSTICE.

## Graduation Challenge: A class action

By LM Clinton  
 STAFF WRITER

We Cleveland-Marshall Law students spend countless hours pushing ourselves during the academic year. The 2010 Graduation Challenge will finally give us an opportunity to express ourselves.

On April 16th at 6 p.m. in the Cleveland State Main Classroom auditorium and atrium, the 2010 Graduation Challenge Committee will hold an artistic gala and variety show called “PARTY 2010: A Class Action”. The event will feature a silent auction with fine art work created and submitted by both C|M|Law students and the Greater Cleveland artistic community. The evening will also offer a comedy act with three skits parodying law school.

“It’s a chance for students to laugh at the idiosyncrasies of C|M|Law and law school life,” said Graduation Challenge committee co-chair Alana Jochum.

In addition to the creative arts portion, the event will also feature music by “The Arbitrators”, a band comprised entirely of C|M|Law students. The band will perform both original songs and covers. Hors d’oeuvres and alcohol will also be served.

Graduation Challenge is an annual fundraising effort conducted by graduating law students to financially benefit C|M|Law. Students, faculty, alumni, and staff can pledge any amount over three years, though \$100 is the typical donation. Students can also give by purchasing a Graduation Challenge t-shirt at the SBA office for \$15. The donations can go to whatever area of the law school the donor chooses.

Jochum said, “This is a chance for students to invest in their degrees and to make the school better while they’re here.”

Committee member Margaret Sweeney remarked, “The new Trial Room is a big thing that the law school wants money to go to, as well as scholarships. The more money there is for scholarships, the better students

we attract. It takes money to do that.”

Jochum said, “One of our goals is to outdo last year’s graduating class, who raised \$10,000.”

The group is well on its way to meeting this goal. The C|M|Law community has already given \$3,000 at the March 6 Barrister’s Ball and over \$200 at a March 10 bake sale held in the law school atrium.

Sweeney added, “Our goal is to be one of the best, if not the best, Graduation Challenge class in C|M|Law history. We are going all out.”

Most classes focus their Graduation Challenge efforts on fundraising alone, but this year’s committee wanted to provide a forum for members of the C|M|Law community to express themselves artistically. Committee member Sarah Kovit remarked, “This is for students who don’t have a forum to express their talent. It’s a chance for them to be seen.”

Anyone interested in participating in the variety show, artistic gala, or donating art for sale can contact Graduation Committee co-chairs Lindsay Wasko ([lindsay.wasko@law.csuohio.edu](mailto:lindsay.wasko@law.csuohio.edu)) or Alana Jochum ([alana.jochum@law.csuohio.edu](mailto:alana.jochum@law.csuohio.edu)). Are you up to the challenge?

## The Libertarian Contrarian

### The hubris of government economic development

The recently passed Cuyahoga County Charter grants broad economic development powers to the newly created Cuyahoga County Council. In part, Section 7.01 of the charter reads:

to consider the accompanying wealth destruction that is explained below.



*“The County shall have as a primary responsibility the promotion and enhancement of the economic well-being and prosperity of the County... [T]he County shall...develop and implement policies...for the expansion and enhancement of economic activity in the County so as to create and preserve jobs and employment opportunities... In furtherance of this purpose, the County shall appropriate money and enter into agreements...with public and private persons, firms and corporations...”*



By Matt Brakey  
 COLUMNIST

The above should terrify you. Cuyahoga County has a long history of pursuing taxpayer subsidized economic development projects. Cleveland Browns Stadium, Progressive Field, Quicken Loans Arena, and the Rock and Roll Hall of Fame are all examples of these types of projects. These projects were all billed as a way to bring economic prosperity to the city, yet the results have been antithetical.

The Medical Mart is the next development project in the queue, set to cost taxpayers \$425 million. This project will not create wealth, but rather destroy it; it will not generate jobs, but instead eradicate them; it will not vitalize the economy, but rather depress it.

What is the source for this \$425 million? Taxpayers, of course. It will come from Cuyahoga County wage earners, property owners, consumers, and businesses. It is a wealth transfer, robbing taxpayers to provide corporate welfare.

Envision a patient desperately in need of a blood transfusion. The medical staff hurriedly preps the patient’s arm for an IV. Blood begins to flow. However, rather than running the IV from a bag of donor blood, the IV runs from the patient’s other arm. Welcome to Cuyahoga County’s style of economic development, in which we run money from one arm of the economy to the other.

Admittedly, this analogy is simplistic. Governmental economic development projects do not exist as a closed circuit. This metaphor fails

Taxes are paid by the productive economy. They are siphoned from business profits, income, and savings. If there were no such tax, this money would stay with taxpayers and would flow into one of three channels: consumption, investment, or savings.

Assuming this money would not be stuck in a mattress, consumers would have more purchasing power, companies would sell more

products, more credit would be available, and there would be investment to create and expand businesses. All of this activity would be economic in the sense that consumers purchase goods and services from the businesses best able to satisfy their most immediate wants, and businesses make investments that produce the highest expected rate of return.

A governmental development project is uneconomic in the sense that the expected rate of return is too low to justify a business undertaking without government subsidy. Therefore, what the government is doing is diverting money from the economic to the uneconomic. The difference between the economic and uneconomic project returns is wealth destruction. But wait, there’s more.

The foregoing analysis fails to consider the filter between the taxpayers and the corporate recipient. The bloated county bureaucracy, tantamount to a transaction cost, lines its pockets before the money reaches the corporate beneficiary.

Although massive, this economic destruction is invisible to the naked eye. We never see what could have happened had those dollars remained with the taxpayer. We only see the ballparks and the museums and the soon-to-be convention center. Politicians cut their ribbons, count their new jobs, and pull the wool over the eyes of the public.

Cleveland now awaits the Medical Mart and the new Cuyahoga County Council’s unrestrained economic development powers. As our economy hemorrhages wealth and jobs, our government fails to recognize it is killing the patient.

## Letter to the Editor:

### Medical malpractice reform requires cooperation from all parties

I applaud Cleveland-Marshall for partnering with MetroHealth to reduce litigation through its Community Health Advocacy Clinic (CHAC). However, Pamela Daiker-Middaugh’s comments in the February issue of *The Gavel* merit a response. Middaugh is quoted as saying that the CHAC will help C|M|Law produce stellar lawyers who are “not thinking about suing the doctors, but thinking of the legal issues surrounding the Plaintiff.”

Middaugh misapprehends the state of contemporary medical malpractice litigation. First, because the high cost of litigation prices most potential claims

out of the market, most alleged victims fail to find counsel to represent them.

Secondly, many doctors and hospital systems refuse to take responsibility for the mistakes they make that kill or permanently disable their patients. Ten years ago the Institute of Medicine found that up to 98,000 Americans die each year from preventable medical errors. The families of deceased patients who once relied on their incomes must find another way to eat and pay their rent. Disabled patients cannot work. Economic insecurity

forces them to seek legal redress.

I work every day with stellar lawyers from C|M|Law who sue and defend doctors and hospital systems. I applaud C|M|Law’s efforts, but caution Daiker-Middaugh and her team that real reform in the medical-legal arena is impossible unless providers take steps to reduce errors and take responsibility for them when they occur.

--Joseph Dunson '07

Associate Attorney, Lowe, Eklund, Wakefield & Mulvihill, Co., L.P.A.



# POLITICAL BROADSIDE

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

## Issue 5: Will the 3C Corridor prove positive or negative for Ohioans?

### A LIBERAL ARGUMENT

Every time I visit Chicago, I am reminded of just how cool Cleveland could be. Ohio has allowed its tax dollars to fund an overcrowded, traffic jam-filled interstate highway system. In contrast, the state of Illinois has funded a commuter rail system that has helped the city of Chicago grow exponentially and has allowed urban sprawl to be a link, not a division, to Illinois' other population centers.

Here in Ohio, we have now been given the same chance—an opportunity to link Ohio's largest cities by commuter rail line. At one time the dream of linking Cleveland, Columbus, Dayton, and Cincinnati by rail was all but dead. However, thanks to the foresight of Gov. Strickland, committed citizen groups, and a generous \$400 million grant from the American Reinvestment and Recovery Act, the dream of a commuter rail system is again a possibility. This system, known as the 3C Corridor, will link all

of Ohio's major population centers, and will reap major economic and environmental benefits for all Ohioans.

The 3C Corridor will help create jobs in the State of Ohio. In the initial stages, 255 jobs will be created between now and 2012. While that may not sound like much, these jobs will be a boon to those families who need the income. Over the long run, the project is expected to create between 8,000 and 11,000 jobs and generate future economic development along the rail line. The addition of a commuter rail line will also aid in the attraction and retention of young professionals. In fact, a recent study by Amtrak (who will operate the 3C Corridor) found that 73-percent of Ohioans between the ages of 18 and 34 support the project. For a state that has been hemorrhaging young professionals, the ability to not only retain, but also attract such people should be worth any state investment. Furthermore, where there is a young well-educated work force, there will be businesses willing



By Lindsey Wilber  
LIBERAL COLUMNIST

*A recent study by Amtrak... found that 73-percent of Ohioans between the ages of 18 and 34 support the project. For a state that has been hemorrhaging young professionals, the ability to not only retain, but also attract such people should be worth any state investment.*

to relocate and enraptures rolling up their sleeves.

The economic opportunities cannot be understated. The 3C Corridor has the ability to create additional \$111 million in potential consumer spending and could potentially add an additional \$1.2 billion to Ohio's economy. This project would also create

numerous opportunities for tourism. So far, the Cleveland Indians and the Cincinnati Reds, as well as the Cleveland Browns and the Cincinnati Bengals, have discussed plans for "Battle of Ohio" packages that would include tickets, round-trip fares, and hotel stays. Not to mention that Ohio's only NBA team and NHL team would be but a short train ride away from anywhere in

the state, a ride that could be spent in the comfort of the "bar car" pre-gaming, or the obvious draw of tailgating during the ride down for a Buckeyes game.

In addition to the economic advantages, the

benefit to the environment will also play a role in assisting Cleveland to reach its goal of being "a green city on a blue lake". The project will relieve congestion on I-71, America's fourth largest interstate network. It will remove over a quarter of a million vehicle miles traveled per day and save nearly 15,000 gallons of fuel per day. This will go a long way towards relieving Ohio's dependence on foreign oil.

While I will concede that the project is not a panacea, it is a step in the right direction. The 3C Corridor project will create much needed jobs both in the short and long run. It will spur economic development along the route, helping to revitalize urban centers. The creation of the route will help retain and attract young professionals, which in turn will attract established businesses and help in the creation of new ones. The project will increase tourism and link major sports markets in a way never before possible. While it may not solve all of Ohio's problems, I think it is a pretty good start.

### CONSERVATIVE REBUTTAL

I can understand your enthusiasm. Railroads carry a powerful sense of nostalgia for many Americans. So it's easy to see why the dream of a passenger train system linking Cleveland, Columbus, and Cincinnati would create excitement. But nostalgia cannot rid us of the gritty facts that show how this dream is actually a nightmare that will negatively impact the state of Ohio. It would be fiscally irresponsible to allow this project to continue. The \$400 million would be better spent if the state was allowed to use it in a way that improves upon already existing public transportation opportunities such as roads and buses.

The hemorrhaging of young professionals is not something that can be prevented through the construction of a

commuter railroad or obediently reciting talking points. It makes me all warm and fuzzy inside when you say that 73-percent of Ohioans aged 18-34 support the 3C Rail project, but due to the "hemorrhaging" you speak of, I'd be willing to bet that the majority of those Ohioans are college students who don't pay taxes in the first place. I'm pretty sure that their attitude towards the 3C Rail will change once they graduate and are no longer living wild, free, and subsidized in the "bar car", pre-gaming it. They will be among the first to leave the state when they realize the massive debt Ohioans have been burdened with now falls into their laps.



### A CONSERVATIVE ARGUMENT

Even with \$400 million from the federal government, Ohio does not have adequate resources to get the proposed 3C Rail project up and running. Ultimately, the state will be unable to afford the cost of operating this service which intends to link the cities of Cleveland, Columbus, and Cincinnati by passenger rail. The speed and schedule of the

trains as proposed will almost guarantee that very few people will actually be able to utilize the rail services. This means that the entire project will require even greater subsidies, all at the expense of the taxpayers. The people of Ohio are being railroaded into paying for a system that will not only fail to meet their transportation needs, but force them to bear the burden of paying for low-tech, half-empty trains long into the future.

The facts are very clear as to why the 3C Rail project is destined for failure. First, the proposed trains would only average a speed of 39 mph. In addition to the gruelingly slow

pace, the schedule as currently proposed, and the fact that only four trains per day will be running makes the rail all but unusable for business travelers and sports fans. That is, unless you plan on spending the night in Cincinnati. That means that on top of the price of your train ticket, you have to dish out at least another \$100 to find a hotel room for the night. We shouldn't forget that almost half of the \$400 million in public funds will be used to improve private rail lines owned by CSX, Norfolk Southern, and the Indiana & Ohio Railway Company – which the 3C Rail plans to share.

Supporters of the rail will argue that the 3C project will give Ohioans a taste of what traveling by rail is like and create a demand for a modern high speed system—very unlikely. A high speed system, if one even ever comes, is decades away. By that time most Ohioans will be soured by the shortcomings of the 3C rail system.

The second problem is the



By Mike Borowski  
CONSERVATIVE COLUMNIST

*Supporters of the rail will argue that the 3C project will give Ohioans a taste of what traveling by rail is like and create a demand for a modern high speed system...A high speed system, if one even ever comes, is decades away. By that time most Ohioans will be soured by the shortcomings of the 3C rail system.*

subsequent annual cost of operating the rail system. A feasibility study by Amtrak – which would operate the service – said the system would cost \$29.2 million a year to operate and generate roughly \$12.2 million from passengers. That means that the State of Ohio, which is already struggling with its budget, would have to cover the difference of \$17

million. That's if the 3C Rail meets ridership projections by Amtrak of 478,000 passengers a year. The state could pay even more if ridership projections fall short. As it stands now, we are looking at an annual subsidy provided by the state of \$25-\$35 per rider.

One more thing, by the way – if the State of Ohio decides to discontinue service for any reason whatsoever, say a lack of ridership, Washington could ask for its money back. What would Ohio do then?

Last time I checked, a common sense alternative does exist for people who wish to travel to Cincinnati or Columbus without driving – the bus. Greyhound will get you to Cincinnati in roughly five hours for around \$43. For about the same price the 3C Rail will get you there in about six hours. We should be looking at more efficient ways to travel between the major cities in Ohio, not less efficient ways.

Before anybody decides to get on my case about how the 3C Rail will create jobs for the state think about this: According to the Associated Press, the one thing that the proposed 3C Rail will not be doing is creating a significant number of high-tech, high paying jobs here in Ohio. Any truly high-speed technology will have to be outsourced to overseas firms. Ohio workers will simply be relegated to constructing an antiquated rail system that will see limited usage. We may as well be building canals. Think about it - once the canals are finished, we could always pay the workers to fill them back in. FDR would be proud.

### LIBERAL REBUTTAL

First of all, the trains on the 3C line will travel at a speed of 79 mph, not 39. The speed is comparable to the speeds at which other states have started at with their commuter rail lines. At this speed the trip from Cleveland to Cincinnati is under six hours. Not bad considering that during that time, you can be surfing the web, reading, or relaxing in the dining car. The reason for the speed is that the project will mainly use existing freight lines, with bypasses for the trains at certain locations. This allows the state to get the line up and running in the least amount of time possible, while allowing for further expansion and

higher speeds as ridership increases.

While it is true that the state will need to subsidize the line, it makes it no different from other transportation. The state supports and pays for the upkeep of the interstate system and the federal government has bailed out the airline industry. The revenue raised in increased consumers spending, job creation and tourism will help relieve some on the stress on Ohio's budget, and make subsidizing the rail line easier. Not to mention how attractive the rail line will make Ohio to businesses and young professionals. The 3C line is the fastest, most economic way to bring commuter rail to Ohio. There will always be those who are afraid of change, but the 3C line is an express route to Ohio's future.



# Barrister's Ball: Brooks and Jochum first-ever Werber Award joint recipients

By Tara Chandler  
STAFF WRITER

This year's Barrister's Ball was held the evening of Saturday, March 6, at the Wyndham Hotel in Playhouse Square. The theme was "All that Glitters is Gold", and the SBA handed out masquerade masks to all 295 guests in attendance. Guests enjoyed a cocktail hour before dinner and spent the rest of the night dancing to DJ Freddie James.

Keeping with recent tradition, SBA President Lindsay Wasco presented awards for faculty and staff members of the year, as well as the Stephen J. Werber Collegial Integrity Award and SBA student leadership scholarships.

Faculty of the year went to Prof. Kevin O'Neill, while Prof. Michael Borden finished as runner-up. Staff of the year went to law library employee Jessica Matthewson, with Office of Career Planning Director Jennifer Blaga placing second in just her first year on staff.

Maya Simek and Teirra Ndegwa won the full-time student SBA leadership scholarships and *The Gavel's* Kevin Kovach won the part-time student leadership scholarship. The Werber Collegial Integrity Award went to two winners for the first time ever, with Aja Brooks and Alana Jochum receiving the honor.

Guests pledged a total of \$3,000 to 2010 Graduation Challenge.

Gold print costs a lot, so all that glitters is black and white. Photos from 2010 Barrister's Ball at the Wyndham Hotel in Playhouse Square.



Vadim Levtonyuk's group boards a plane bound for the Bahamas. Photo courtesy of Slavic Full Gospel School.

## MISSION

CONTINUED FROM PAGE 1

sprawled across the street in front of them.

"Our first instinct was to help people. But we were very concerned about the remainder of our group and whether they had survived. We also saw a few of the Haitians blaming 'blancos' (whites) for the earthquake. Unfortunately, it reminded me of an incident when voodoo priests were cursing us on the way to the worksite," said Levtonyuk.

Unable to drive the truck any further, the men set out on foot, luggage in tow, to rejoin their companions.

As people were milling around and desperate cries echoed throughout the collapsed ruins, they saw the horrible aftermath. Levtonyuk recounted that he observed "casualties being removed from the debris as well as those who were not so lucky."

He was relieved to find that all the missionaries were accounted for when

they reached the pastor's house. The next day, they journeyed to the airport to see if they could depart as scheduled.

As one may expect from a multinational organization, United Nations peacekeepers standing guard at the damaged airport were unable to assist the missionaries because of language barriers.

"They were from South America and only spoke Spanish, so trying to communicate with them was a fruitless endeavor," said Levtonyuk. "Most Haitians speak French or Creole, which neither the peacekeepers nor I speak fluently."

The American consulate offered conflicting stories about the missionaries' next step. The information alternated between being told they didn't know when they could leave and that they would soon be evacuated. When the group finally thought evacuation was confirmed, the group gave away their possessions and air mattresses to the survivors, only to learn that they were not to leave that day after all.

Becoming more despondent by

the hour, Levtonyuk claimed a miracle saved him and his companions from uncertainty. Amidst the chaos consuming Port-au-Prince, a pilot confronted some of the missionaries and asked them if they wanted to leave within five minutes. They told Levtonyuk about the offer, and despite legitimate concerns of kidnapping and ransom, the group opted to accept the offer.

Levtonyuk later learned that the man had delivered an Icelandic rescue team and was not permitted to remain in Haiti overnight. The pilot planned to go to the Bahamas to refuel before returning north, and determined that he would evacuate as many people as he could.

Once in the Bahamas, the team received medical attention. "The only injuries we had were some cases of poison ivy from the mountains," recalled Levtonyuk. "We were really lucky."

Levtonyuk said that "several (Bible) verses came to mind" when he pondered his trials. First, he noted Psalm 91:7, which says, "A thousand shall fall at thy side, and ten thousand at thy right hand; but it shall not come nigh thee".

The recent graduate next shared the somewhat apocalyptic Mark 13:8, which says, "For nation shall rise against nation, and kingdom against kingdom: And there shall be earthquakes in diverse places, and there shall be famines and troubles: These are the beginnings of sorrows".

Finally, Levtonyuk invoked Luke 13:4-5, which says, "Or those eighteen, upon whom the tower in Siloam

fell, and slew them, think ye that they were sinners above all men that dwelt in Jerusalem? I tell you, Nay: But, except ye repent, ye shall all likewise perish."

Levtonyuk commented on what he took away from his experiences.

"When I share my experience, the need for salvation is more apparent."

Continuing to cite scripture passages, he mentioned Revelation 3:20, which quotes Jesus as saying, "Behold, I stand at the door, and knock: If any man hear my voice, and open the door, I will come in to him, and will sup with him, and he with me."

Undeterred by his experience, Levtonyuk wants to return to Haiti before full-time employment prevents him from doing so. Accordingly, he is helping to organize an April mission to aid survivors.

Levtonyuk's presentation was one of several activities in which CLS participated this year. Last semester, the club hosted a presentation where

the participants discussed how their faith has helped them in their law-related professions; some members also volunteered at a local soup kitchen. This semester, CLS hosted a bake sale and was able to secure donations from area department stores



Levtonyuk (standing, in dark vest and pants) and group members wait to leave the Port-au-Prince airport. Photo courtesy of Slavic Full Gospel School.

to support Providence House, a near-West Side faith-based charity that offers aid to abused women and children.

"We're glad to be able to help out. Hopefully, the club will continue to do these sorts of things next year, too," said president Tyessa Woods.



# UPCOMING EVENTS

THE GAVEL ASKS STUDENT LEADERS TO TELL US ABOUT THEIR UPCOMING EVENTS

DATE	ORGANIZATION	EVENT DESCRIPTION	PLACE	TIME	CONTACT
3/23/10	Law Library and Office of Career Planning	Getting Ready To Clerk Seminar	Room LB60	4:50 P.M. to 5:50 P.M.	Laura Ray, laura.ray@law.csuohio.edu
3/24/10	Criminal Law Society	Meeting and Elections	Room LB202	4:30 P.M.	Scott Forsman, sforsman@law.csuohio.edu
3/25/10	BLSA	Writing for Success Part II	Room LB60	5:00 P.M.	Drew Odum, dodum@law.csuohio.edu
3/26/10	Delta Theta Pi	Tom and Jerry Dinner	West Side Masonic Temple, 2831 Franklin, Cleveland	6:00 P.M.	Nick Costeras, nicholas.costeras@law.csuohio.edu
3/26/10	SBA	Game Night Fundraiser	Harry Buffalo, East 4th Street	8:00 P.M.	Rebecca Petrulis, RPetrulis@law.csuohio.edu
3/29/10	Christian Legal Society	Bible Study	Room LB64	5:00 P.M.	Tyessa Howard, tyessa.howard@law.csuohio.edu
3/31/10	Journal of Law and Health	The 2010 Cleveland-Marshall Journal of Law and Health Lecture featuring Professor Mark Votruba: "Form & Reform: The Economic Realities of the United States Healthcare System"	Moot Court Room	5:00 P.M.	
4/5/10	Office of Career Planning	ELLA Panel	Room LB66	4:00 P.M. to 5:00 P.M.	Jennifer Blaga, jennifer.blaga@law.csuohio.edu
4/6/10	Office of Career Planning	Fall Interview Program Seminar	Room LB202	5:00 P.M. to 6:00 P.M.	Bernadette Salada, bernadette.salada@law.csuohio.edu
4/7/10	C M Law Alumni Association	Pathways to Practice - Government	Room LB60	12:00 P.M.	Mary McKenna, mary.mckenna@law.csuohio.edu
4/7/10	Federalist Society	Attorney Harvey A. Silverglate	TBA	4:00 P.M.	Karri Peck, kerri.peck@law.csuohio.edu
4/8/10	Friedman & Gilbert Criminal Justice Forum	2010 Friedman & Gilbert Criminal Justice Forum Lecture: "Have We Become an Overly Punitive Society? A View From the Bench"	Moot Court Room	5:00 P.M.	
4/9/10	Global Business Law Review	How the International Community Responded to the Global Financial Crisis	Moot Court Room	1:30 P.M. to 4:30 P.M.	Andrew Trout, andrew.trout@law.csuohio.edu
4/9/10	BLSA	Annual Scholarship and Awards Banquet	Doubletree Hotel, Downtown Cleveland	6:00 P.M.	Kevin Lowery, klowery@law.csuohio.edu
4/13/10	Democratic Law Organization	The Lawyer in Public Service: a Free Public Address by Ohio Secretary of State Jennifer Brunner	Moot Court Room	5:00 P.M.	Peter Zahirsky, peter.zahirsky@law.csuohio.edu
4/14/10	C M Law Alumni Association	Pathways to Practice - Criminal Law and Plaintiffs' Practice	Room LB60	5:00 P.M.	Mary McKenna, mary.mckenna@law.csuohio.edu
4/21/10	Criminal Justice Forum	Professor Joshua Dressler: "A Liberal Scholar's Reflections on Feminist Criminal Law Reform Efforts: An Uneven Story"	Moot Court Room	5:00 P.M.	
4/22/10	American Constitution Society and Federalist Society	Free Speech or Diluted Citizen Speech? The State of Corporate and Union Campaign Finance Law Under Citizens United v. FEC	Moot Court Room	6:00 P.M.	Kevin Kovach, kkovach@law.csuohio.edu

Did we miss something? Be sure to contact us at [gavel@law.csuohio.edu](mailto:gavel@law.csuohio.edu).



# What did the Founders actually believe?

## Scholar discusses views of Hamilton and Jefferson, then dismisses literalism and originalism as unworthy theories

By *Jeremy Samuels*  
STAFF WRITER

Antonin Scalia's "originalist" interpretation of the Constitution has no legitimate basis in history. Thomas Jefferson was the original "strict constructionist". Many hold up Alexander Hamilton as the founder of the first conservative political party, but he favored a loose interpretation of constitutional text. These are just a few of the points Dr. Lawrence Keller touched on in his March 11 lecture, "What did the Founders actually believe?" The American Constitution Society sponsored the lunchtime discussion, which centered on the differences between "the Founding Fathers" and how they initially formed the federal government.

Dr. Keller earned his Ph. D. from American University and his J.D. from Vanderbilt University's School of Law, with a focus in administrative law. He has taught and practiced in Public Administration for 41 years, most recently as a professor at the Cleveland State Maxine Goodman Levin College of Urban Affairs, where he teaches several JD/MPA dual degree students.

In his lecture, Keller focused on the Constitutional Convention, slavery, and how struggles between the Founders impacted the formation and legacy of the initial federal government. Keller argued that it would be "impossible" to convene a new constitutional convention, because political partisans would seek to get issues like abortion, healthcare, and various other hot-button issues into the text. More importantly, Keller noted the secretive nature of the 1787 convention, and the fact that it involved "just over 50 individuals, all college-educated in a nation where only around one-percent of people had college degrees, who



Dr. Keller listens to a question from Matt Brakey (not pictured). Photo by *Jeremy Samuels*.

engaged in a political discussion for days with absolutely no media coverage."

Keller explained that while the convention delegates had strong differences of opinion, they worked together to compromise. Given the voluminous amount of today's media coverage, Keller theorized that the same sort of convention could no longer occur. He stressed that our national government only emerged from the convention through compromise. The delegates' original grant of authority was to reform, not replace, the Articles of Confederation. Comparing this to the refusal of modern political parties to compromise on much of anything may strengthen Keller's position.

Keller noted that the Founders' crucial compromise came on slavery, He averred that

all of the statesmen saw slavery as "a despicable institution that would eventually die-off on its own." Keller explained that because the Constitutional Convention came six years before Eli Whitney invented the cotton gin, slavery at the time was "only profitable in the Tidwater region, up to 100 miles inland in Virginia." Although Whitney's invention made cotton and slavery far more profitable, the Founders abolished the importation of slaves as of 1808, as part of the Constitution.

After laying the historical groundwork, Keller analyzed the arguments between the Founders. He claimed the leaders viewed George Washington as "an indispensable man" who held factions together as one. Keller stressed that by voluntarily returning to Mount Vernon both after the Revolutionary War and his second term as president, Washington became "the first revolutionary leader to give up power." Keller noted that Jefferson had wide popularity at the end of his second presidential term in 1809, but declined to run again because he felt obligated to follow Washington's example. Keller then moved into

the competing factions in the early government: the Federalists, who favored a strong central government, and the Anti-Federalists, or Republicans, who favored a weaker government. Hamilton's Federalists later spawned the Whigs, who then spawned the Republican Party. Jefferson's early Republican Party spawned Andrew Jackson's Democratic Party.

The Federalists and Republicans had their first serious clash over John Adams' appointment of "the midnight judges". Keller laughed as he observed that the Republicans coined the term



Federalist leader Alexander Hamilton (left) and Republican leader Thomas Jefferson (right) sparred over the powers of the federal government.

"midnight judges", and that the opposition tends to get its phrases into history. Adams' appointments included William Marbury, whose appointment Jefferson and Secretary of State James Madison attempted to fight. As any law student knows, the case that emerged was

*Marbury v. Madison*, in which Federalist Chief Justice John Marshall, Cleveland-Marshall's namesake, established the theory of judicial review. Marshall's opinion forced Jefferson to either put political opponent Marbury into power or uphold Marshall's decision to overturn the portion of the Judiciary Act of 1789 under which Marbury received his appointment.

Keller asserted that Jefferson's decision to enforce Marshall's opinion made the federal judiciary "truly equal to the other two branches of government," even though Jefferson himself "believed that every branch could interpret the Constitution itself."

The scholar concluded his discussion with a brusque dismissal of two modern-day conservative theories of constitutional interpretation. First, Keller argued that "literalism", which many people now mean when they say "strict constructionism", is wholly without merit. He stressed that it is "impossible to interpret a little less than 7,000 words." Keller likened literalism to a literal interpretation of the Bible, and suggested such a view would necessarily create a myriad of problems. For example, Keller asked, "if the four Gospels named 15 disciples, which are the actual 12?"

Keller also dismissed "originalism", which U.S. Supreme Court Justice Scalia often supports. Arguing that the theory is implausible or impossible "because there are no notes, minutes, or transcripts of the Constitutional Convention," Keller asked how anyone could ever actually know what the Founders' original intent was in drafting constitutional provisions. He especially focused on the Connecticut Compromise, known as "the Three-Fifths Compromise" because it led to counting slaves as three-fifths of a person for Congressional representation. Keller contended that the number was nothing more than a political agreement to move along with other matters, but that originalism would have people believe that all of the Founders actually agreed that it was of vital importance to count each slave at exactly three-fifths of one person,

Concluding the discussion by arguing that "the Constitution was designed to change with the times, with the exception of certain principles", Keller advocated that so long as those tenets, like the Bill of Rights, are upheld, everything else can and should change as society needs. Otherwise, he noted, the Constitution would "handcuff society" from responding to national emergencies.

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*The Gavel* meets once per month to discuss story ideas and make assignments. Our next issue will be released at the end of April, and will include the satirical insert, *The Gravel*.





## Panelists warn poorly managed debt may preclude a legal career

By Joe Fell  
ASSOCIATE EDITOR

The global economic crisis has left virtually no societal demographic untouched. Students fall deeper into debt as law firms lay-off lawyers and leave recent and soon-to-be law school graduates scrambling to find work while facing mountains of loan payments. To make matters worse, bar admissions committees have increased scrutiny of loan debt. By now, the infamous story of Robert Bowman, the New York law student denied application to the New York bar due to excessive student loan debt, has spread among law students like wildfire, striking fear in students who have to finance their own educations. To equip students with the tools to cope during these times, Cleveland-Marshall, with cooperation from the local judicial, legal, and financial communities, held a program titled "The Importance Of Your Financial Health" on March 8 in the Faculty Presentation Room. A variety of speakers presented about topics such as financially-related bar application questions, debt management, student loan repayment, and resources C|M|Law provides regarding financial matters.



The program provided those in attendance with solid financial strategies and advice to successfully manage their financial matters.

Federal Bankruptcy Court Judge Pat Morgenstern-Clarren began the program with a welcome. Lenore Kleinman, Esq., a member of the Bar Admissions Committee, then gave a presentation titled, "Financial Questions that You Will Be Asked When Applying for the Bar". Kleinman's presentation discussed the rationale for asking financially-related questions on the bar application and raised the important point that past patterns of financial mismanagement can raise questions about whether someone will be able to successfully manage client funds in the future. Her presentation also shed light on the bar interview process and made it clear that most students sitting for the bar have student loans and that the emphasis is on successful management of those student loans.

Jay Seaton then gave a talk titled "Facing Your Debt". Seaton works for Consumer Credit Counseling Services, which has helped almost 300,000 Greater Clevelanders over the past 50 years. Stressing that planning and knowledge are key factors in ensuring solid financial health, Seaton encouraged his audience to develop a spending plan to successfully manage their money, and to obtain a copy of their credit report to ensure that there are no errors. During his presentation, Seaton wryly cautioned attendees not to be seduced by the "banjo guy" from the freecreditreport.com commercials because the site's service actually costs money. He asked an audience member where to obtain a free annual credit report, and received the proper answer-annualcreditreport.com. Seaton urged those in the room to pay the fee associated with receiving their actual FICO credit score number so they know what to expect when they seek loans or car insurance.

Additionally, Seaton discussed

the different types of debt that one can have and stated that "high cost" debt, such as credit cards, impose the greatest harm upon credit scores and should be paid-down first. The presenter advised, "do anything you can to reduce it." Seaton concluded by stressing the importance of saving money and establishing a strong financial base before pursuing risky investments like stocks. He left audience members with copies of a brochure titled "Build Wealth, Not Debt" from Cleveland Saves, an organization dedicated to educating Clevelanders about the importance of saving money.

Next, Frederick S. Coombs, Esq., spoke about various topics related to student loans in a presentation titled "Concerned that You May Not Be Able to Pay Your Student Loans? Things You Need to Know". Coombs' presentation reminded all in attendance of the negative consequences that can result from defaulting on student loans. He pressed the point that student loans are rarely discharged in bankruptcy cases, so they often hound debtors for life or until they are paid.


Coombs' drove his point home sarcastically, saying, "Getting rid of student loans in bankruptcy, that's like herpes—you're going to have them forever!"

His presentation also covered the various types of student loans and discussed the options like deferment and income-based repayment that are available to debtors who struggle to pay following graduation. Coombs also made it clear that lenders do not want to put loan recipients in a position where they cannot repay, because the lending business relies on loan repayment.

Assistant Dean Christopher Lucak from the Office of Admissions and Financial Aid then presented the various student loan repayment resources available through C|M|Law. In keeping with the themes of previous speakers, Lucak also highlighted the importance of knowledge, and encouraged students to use the National Student Loan Data Service's website to learn who holds their student loans. This is particularly important because, as Coombs later commented in response to a question from *The Gavel*, many lenders like Key Bank have recently sold student loans to the Department of Education or other buyers, to help the banks alleviate cash flow problems.

Lucak exhorted attendees to engage in regular and honest communication with C|M|Law and those who manage their loans, to ensure that any financial problems that may arise are resolved as soon as possible. Additionally, Lucak reminded attendees that they can consolidate their public loans and receive a blended interest rate on all such loans, which will be grouped into a single payment.


During the concluding question-and-answer session, Judge Morgenstern-Clarren reminded students, "(loan) servicer is just another word for a collection agency", as she stressed that student loan mismanagement can have pernicious consequences on borrowers' financial health.



**PARTY**  
2010  
A Class Action

<b>WHEN?</b>	April 16th, 2010 @ 6pm
<b>WHERE?</b>	Cleveland State MC Building
<b>WHAT?</b>	Graduation Challenge with events such as: - Art auction of student-created work - Live music & skits - Silent auction of locally donated items - Libations, food, & a great time!
<b>WHO?</b>	Cleveland-Marshall Class of 2010
<b>WHY?</b>	Raise money for a great cause—people just like us! All proceeds will go to C-M scholarships & projects

E-MAIL [CMParty2010@gmail.com](mailto:CMParty2010@gmail.com) for more information or to get involved!



## Bar in mind: get moving take exam right after graduation



By Marc D. Rossen  
GUEST CONTRIBUTOR  
C-M CLASS OF 1994  
SUPREME BAR REVIEW,  
FOUNDER & DIRECTOR

When is the best time to sit for the bar exam? For most people the answer is the same: immediately after graduating from law school. The reasons for this are clear:

**Academic readiness.** You are at your peak in terms of academic performance when you are fresh out of school. You have honed your study habits and you are accustomed to taking law school exams.

**Retention of substantive law.** Your memory of your law school subjects is freshest right out of school. You will certainly forget most of the substantive law that you learned over time. Therefore, the longer you wait after graduation to sit for the bar, the more information you will need to re-learn.

Do not think that if you put off the bar exam to give yourself more time to study that you will have any advantage over those who jump right in to bar review after graduation. I have heard this rationale before. It strikes me as nothing more than procrastination.

If you must postpone for financial, medical, or other unavoidable reasons, that is one thing. You should not try to study for the bar exam when you are under stress or unable to give it your all. However, if there is nothing

holding you back from taking the bar exam after graduation from law school, then do not look for excuses to put it off. If you think you need extra time to prepare, then look into getting your bar review materials early and begin your preliminary bar preparation during your final semester of law school.

This advice also applies to anyone who anticipates that they will need to work while studying for the bar exam. Ideally, you would want to take time off from work and other commitments to focus all of your time on bar preparation. However, it is not uncommon during these difficult economic times for students to be forced to work while studying for the bar exam. If you find yourself in this position, it may seem tempting to postpone taking the bar exam until you are able to afford to take more time off.

However, in my experience, most students who postpone taking the bar exam for this reason find it increasingly difficult to take time off later and end up indefinitely postponing the bar exam. Therefore, if you anticipate that you will face this predicament, I urge you to get your bar review materials early and get yourself on a study plan that will allow you to make significant progress prior to the start of your bar review session. This way, by the time you sit for the bar exam, you will have put in the same number of hours as your bar review classmates, but you will have done it over a longer time horizon. Good luck.

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