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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.

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 members of the Faith: The Haiti Moot Court Competition, hosted by

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.

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 Means. 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 plaintiffs’-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 C|M|Law in 1994 and has taught Civil Procedure and various environmental law courses. Crocker became Associate Dean for Academic Affairs in 2006. Dean Crocker plans to continue teaching in her new position.
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 unerving, but I think 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 this process. The fact that faculty, staff, and students were part of the process—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 and witness so many things 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 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 two 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:

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
• Twisty

Tickets: $10 presale, $15 at the door

For more information: Rebecca Petrusil, rpetrusil@law.csuohio.edu
Objective and persuasive writing are quite similar

The CAREER CORNER

Because of the current economic climate, many 1Ls may not be able to find internships or work, 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 Symplicite. Keep an eye out for emails from the alumni association or reach out to alums yourself in firms/companies.

As a C|M|Law student, you also have access to the entire library of CALI lessons and online tutorials that long, animated conversations with colleagues and staff around the front desk carry throughout the first floor. During the exam period, The Golden Rule!

Legal Writing Professor
Karin Mikalsen

Why does the transition from objective writing to persuasive writing seem so difficult?

There are two primary reasons that the transition from objective 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. The second is that when you see 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 accustomed 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 need 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 masters 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 draw 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 itself and to begin to imagine how it fits into the bigger picture of the entire field of legal study and legal practice.

Ask the Law Librarians: Answers to your questions

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, and consider it as online service for our students.
Select “Services” from the right frame of the Law Library’s home page to get the link to the Past Exams database. If you don’t find the exam or professor you are looking for from the website, 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 weeks give you more time to concentrate on your studies. 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 you even? You’ll find resource guides on preparing for exams and study aids on our website 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|M|Law student, you also have access to the entire library of CALI lessons and online tutorials.
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 CM|Law, to discuss the services that his department provides and to get an overview of some of the technological upgrades coming to CM|Law within the next year.

Genzen is no stranger to the rigors of law school, having graduated from CM|Law in 1998. While a student, he had many professors who still grace the halls of CM|Law, including Prof. Stephen Lazarus and Prof. Kevin O’Neill. Before attending CM|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.
- The CM|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.
- 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 CM|Law’s technology department needs to collaborate more with the university’s Information Technology and Technology Division regarding email.

As part of this, Genzen has been meeting with the university administration and other parts of the school to create a new structure for CM|Law’s webmail.

One option currently on the table is using Google Apps to handle email; other higher education institutions and 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 CM|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 being made by the halls of CM|Law and the 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 CM|Law with a state-of-the-art facility in which students and local practitioners can practice trial law, will also offer 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. My goal was to provide 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 fare, but a 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.”

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

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Secretaries of State’s new website aims to inform students about voting

By Kevin Kovach

“When I first arrived at Ohio University, I was initially given a provisional ballot, but when I voted, I hadn’t even thought about it. I had no idea what a provisional ballot was, and had no idea if it actually counted,” recalled Will Tarter, Education 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 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 goal is to help students find the information they need quickly and easily into categories for easier browsing.

The site features a page for Resident Voters, 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, and can provide a greatexample 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. VRIs will review the submissions, and upon approval, will post them on 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 to vote 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 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 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 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 14. Students must have submitted a request to vote by Tuesday, May 3.

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Sweeney remarked, “The new Trial Committee member Margaret make the school better while they’re here.”

for students to invest in their degrees and to of the law school the donor chooses.

t-shirt at the SBA office for $15. The

typical donation. Students can also give

benefit C|M|Law. Students, faculty,

graduating law students to financially

annual fundraising effort conducted by

Graduation Challenge is an

and alcohol will also be served.

songs and covers. Hors d’oeuvres

comprised entirely of C|M|Law students.

arts portion, the event will also feature

committee co-chair Alana Jochum.

school life,” said Graduation Challenge

at the idiosyncrasies of C|M|Law and law

remarked, “This is for students who

remarked, “Our goal

Barrister’s Ball and over $200 at a March

has already given $3,000 at the March 6

graduating class, who raised $10,000.”

our goals is to outdo last year’s

Gavel

Plan

Litigate

The Cleveland-Marshall Law

By Wasko (lindsay.wasko@law.csuohio.edu)
gala, or donating art for sale can contact

participating in the variety show, artistic

A n y o n e  i n t e r e s t e d  i n

A s s o c i a t e  A t t o r n e y,  L o w e,  E k l u n d,

Wasko (lindsay.wasko@law.csuohio.edu)
or Alana Jochum (alana.jochum@law.

csuohio.edu). Are you up to the challenge?

we attract. It takes money to do that.”

J u c e m  s a i d ,  “ O n e  o f

Our goal

of our goals is to outdo last year’s

Graduation Challenge class in

C|M|Law history. We are going all out.”

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 eradiate them; it will not vitalize the economy, but rather denudes 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 lining the patient

from a bag of donor blood, the IV runs

from the patient’s 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. Government economic development projects do not exist as a closed circuit. This metaphor fails to consider the accompanying wealth creation described below.

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 immediate wants, and businesses make investments that produce the highest expected rate of return.

an economic development project is economic 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 un-economic. The difference between the economic and un-economic project returns is wealth destruction. But wait, there’s more.

The foregoing analysis fails to consider the filter between the taxpayer 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 to those dollars had they gone to the taxpayer.

We only see the ballparks and the museums and the soon-to-be-concretized downtown businesses 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.

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:

“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]...to consider the accompanying wealth creation described below.

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

Middough 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 the economic security of the medical profession, now must themselves endure the economic insecurity forces them to seek legal redress.

I work every day with stellar lawyers from CMLaw who sue and defend doctors and hospital systems. I applaud CMLaw’s efforts, but caution Diaker-Middough 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 Danson ’97

Associate Attorney, Lowe, Eklund, Wakefield & Mulvihill, Co., L.P.A.
Every time I visit Chicago, I am reminded of just how great Cleveland could be. Ohio has allowed its tax dollars to fund an overcrowded, traffic-jammed 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 Rehabilitation 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 across Ohio.

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.

Supporters of the rail will argue that the 3C Corridor project will provide 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 ever comes, is decades away. By that time, many Ohioans will be soured by the shortcomings of the 3C rail system. The second problem is the}

**CONSERVATIVE ARGUMENT**

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**LELIBERAL REBUTTAL**

First of all, the trains on the 3C line will run half-hourly. At speeds of 90 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 two 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 3C Corridor will have a series of bypasses for the trains at certain locations. This allows the state to curve the line up and down when they need to. With the massive debt Ohioans have been burdened with now falls into their laps. With so much debt we can’t afford to offer the cost of running the 3C line. The state will need to subsidize the line, it makes no sense whatsoever, say a huge lack of ridership, Washington could ask for its money back, what would Ohio do then?

Last time I checked a common saying is that one thing that the proposed 3C Rail will not be doing is creating a significant number of high-paying jobs here in Ohio. Any high-speed technology will have to be outsourced to overseas firms. Ohioans 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 cars are out of the state, we could always pay the workers to fill them in. FDR would be proud.

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**LIBERAL REBUTTAL**

I can understand your enthusiasm. Rail travel is a great way to get away, it makes you feel like you are moving at a slow pace. But I’ll also remind you of the 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 could make a comeback.

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 DOT, there is one thing that the proposed 3C Rail will not be doing is creating a significant number of high-paying jobs here in Ohio. Any high-speed technology will have to be outsourced to overseas firms. Ohioans 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 cars are out of the state, we could always pay the workers to fill them in. FDR would be proud.
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 Wasko presented awards for faculty and staff members of the year, as well as the Stephen J. Werber Collegial Integrity Award and SBA student leader 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.

Maysiems and Tierra 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.

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.

Levtonyuk later learned that the peacekeepers neither 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.

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.”

T h e recent graduate n e x t s h a r e d 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 3:26, 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.”

Undetered 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 a nearby department store.

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.

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.
# Upcoming Events

**The Gavel asks student leaders to tell us about their upcoming events**

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

Did we miss something? Be sure to contact us at 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

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 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 this 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 Tidewater 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 spun the Whigs, who then spun 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 “midnight judges”, and that the opposition tended to get its phrases into history. Adams’ appointments included William Marbury, whose appointment Keller asserted that Jefferson’s decision to enforce Marshall’s opinion was a political agreement to move along the refusal of Federalist opponents Marbury into power or decision to Marshall’s namesake, established the theory of judicial review. Marshall’s opinion forced Jefferson to either put political opponent Marshall into power or the Federalists later spawned the Whigs, who then spawned the Republican Party.

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 necessitate creating 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 CONNECTED 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, thereby creating an entirely new system of representation. Keller argued that the Constitution was designed to change with the times, with the exception of certain principles. Keller advocated that legislation, or as much as 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.

Dr. Keller listens to a question from Matt Bracey (not pictured). Photo by Jeremy Samuels.
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 unimpacted. 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 school 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-Maryland, with cooperation from the local judicial, legal, and financial communities, held a presentation titled “The Importance of Financial Health” on March 8 in the Faculty Presentation Room. A variety of speakers presented on topics such as financially-related application questions, debts, 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 wisely cautioned attendees not to be seduced by the “banjo guy” from the radio, because the name he chooses to use is only 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 urges 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 “Managing Your Wealth, Not Covering Your Losses”, 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!”

Coombs then 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 Lucak 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.

Bar in mind: get moving take exam right after graduation

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 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 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 can 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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