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THE STUDENT NEWSPAPER AT CLEVELAND-MARSHALL COLLEGE OF LAW

November 2020

## 2020 Presidential Election: Biden and Trump Platforms

**Matthew Svancara Gavel Contributor** 

With the 2020 Presidential Election just days away, this article will go into detail about the platforms for both candidates. I am going to focus on six different issues and policies. These are the Environment and Climate Change, the Economy and Taxes, Education, Foreign Policy, Healthcare Policy, and tackling COVID-19.

#### **Environment and Climate** Change

Biden wants to ensure the U.S. achieves a 100% clean energy economy and reaches net-zero emissions no later than 2050. Biden stated that on day one of his presidency, he will sign a series of Executive Orders that go beyond what the Obama-Biden administration did. They include:

1) Requiring aggressive methane pollution limits for new and existing oil and gas opera-

2) Using the Federal government procurement system which spends \$500 billion every year – to drive towards 100% clean energy and zero-emissions vehicles.

3) Ensuring that all U.S. government installations, buildings, and facilities are more efficient and climate ready.

Biden also wants Congress to enact legislation in his first year which would establish an enforcement mechanism that includes milestone targets before 2025 - making investments in clean energy and climate research, and incentivizing development of clean energy innovations.

Biden also stated he will rejoin the Paris Climate Accord and invest \$1.7 Trillion for climate and environmental justice over the next ten years. Although Biden's campaign site says he supports the Green New Deal, he

has conversely commented in debates that he does not support it.

Trump's climate and environment plan has focused more on increasing American Energy production, and his campaign site does not have a true plan for the environment.

Trump has acted to increase exports of oil, coal, and natural gas by approving the Keystone XL and Dakota Access pipelines and expanding fracking. Trump rescinded President Obama's Clean Power Plan, and instead has proposed the Affordable Clean Energy Rule.

The Affordable Clean Energy Rule will reduce greenhouse gasses, empower states, promote energy independence, and facilitate economic growth and job creation. Trump has also pulled the U.S. out of the Paris Climate Accord.

#### **Economy and Taxes**

Biden has stated he will not

raise taxes on any American making under \$400,000. Biden wants to increase investment in American-made products and American companies. Biden wants to spend \$400 billion in procurement and \$300 billion in research and development to try to create 5 million new jobs.

His "Build Back Better" plan will try to increase domestic manufacturing and investments in clean energy industries. Biden has stated he wants to repeal the Trump and Republican tax cuts and increase the minimum wage to \$15 an hour.

Trump has been touting the American economy before COVID-19 and vows to bring the economy back to pre-COVID. He is pushing to stop outsourcing of jobs to China, and bringing these manufacturing jobs back to the U.S.

Trump stated he will be able

See ELECTION, page 3

## Moon Water - A Flood of Legal Questions

**Aimee Fanter** Editor-in-Chief

On October 26, 2020, NASA's Stratospheric Observatory for Infrared Astronomy (SOFIA) has confirmed, for the first time, water on the sunlit surface of the Moon.

SOFIA detected water molecules (H2O) in Clavius Crater, one of the largest craters visible from Earth, located on the Moon's southern hemisphere. Previously, observations of the Moon's surface detected some form of hydrogen, but scientists were unable to distinguish between water and the close chemical hydroxyl (OH).

This galactic discovery indicates that water may be distributed across the lunar surface, and not just limited to the cold, shadowed places on the Moon. Water, as we know, is a key resource to survival

and life in our universe.

This discovery raises intriguing questions about space resources, and the legal implications of outer space.

According to international law found in the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, celestial bodies such as the Moon are not subject to national appropriation by claim of sovereignty, by means of use or occupation, or by any other means. This is commonly referred to as the Outer Space Treaty (OST). The OST is considered the Magna Carta of space law.

In 1979, the United Nations established the "Agreement Governing the Activities of States on the Moon and Other Celestial Bodies," commonly known as the Moon



So the Moon isn't made of cheese?

Agreement.

This agreement reinforced that celestial bodies must be used for peaceful purposes, but that "the Moon and its natural resources are the common heritage of mankind."

This implies that the exploitation of celestial resources is freely usable to mankind. The United States has not signed this agreement; thus, we are not bound by its obligations.

However, the United States is bound by the Commercial Space Launch Competitiveness Act, which recognizes the right of its citizens to own any resource they manage to mine from asteroids.

The Commercial Space Launch Competitiveness Act does not mention the Moon, but one can see the principle extending to other celestial See MOON, page 3







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## RBG: The WOMAN, the Myth, the Legacy of a Total Trailblazer

**Gabriella Russo Gavel Contributor** 

On September 18th, 2020, the world lost a legal genius. Ruth Bader Ginsburg, born March 15th, 1933, died aged 87 after continuous complications with pancreatic cancer.

Ginsburg was only the second woman ever to be appointed to the Supreme Court. She was nominated by former President Bill Clinton in 1993 to replace Associate Judge Byron White. She was on the Court until her death approximately a month ago. Ginsburg worked tooth and nail even while she was very sick, but her legal career began decades earlier.

Ginsburg was greatly influenced by her mother, Celia Bader, at a young age. Ginsburg recalled in a former ACLU interview, "My mother told me two things constantly. One was to be a lady, and the other was to be independent. The study of law was unusual for women of my generation. For most girls growing up in the '40s, the most important degree was not your B.A., but your M.R.S."

Ginsburg was only one of nine women at Harvard Law School in 1956. Despite the blatant sexism she faced, she excelled academically and made Law Review in 1957. She had to transfer to Columbia Law School



Photo by WFU Law School / Creative Commons

to ensure her family stayed together. She made Law Review again at Columbia, where she graduated in 1959 and tied for first in her class.

She worked at a top law firm in New York during the summer before her 3L year, but was not given an offer due to her sex. She applied to twelve other firms and was only given two follow-up interviews afterward.

Her first job post-grad was to clerk for Judge Edmund L. Palmieri of the U.S. District Court for the Southern District of New York from 1959 to 1961. After this clerkship, Ginsburg worked for Columbia Law School's International Procedure Project and helped co-author a book

on the Swedish legal system. She also translated Sweden's Judicial Code into English.

By 1963, Ginsburg was asked to join the faculty of Rutgers Law School where she experienced pay disparity as a woman. She filed a complaint with other women about this, and there were ultimately substantial increases for all complainants.

In the 70s, Ginsburg joined the New Jersey American Civil Liberties Union where she challenged sexdiscrimination practices that would seem incredibly archaic today. She helped to ensure equal rights for both men and women in the military when it came to tax incentives for married couples and helped with social security survivor benefits.

In 1993, she was finally appointed to the Supreme Court. While here, she helped expand gender equality, access to abortions, women's rights, and LGBTQIA+ community rights.

She remained consistent on issues of civil rights and civil liberties while on the Court and authored many notable dissents when the conservatives on the Court made up the majority. She will be greatly missed every day, and her legacy will live on in all the future female lawyers at CM- Law.

## Lawmakers have No Clue what to do with "HB6"

**Michael Watkins Gavel Contributor** 

In July 2020, it was revealed that multiple individuals, including one Ohio State Representative, were arrested and charged for bribery crimes surrounding the widely opposed House Bill 6 ("HB6").

Republican Ohio House Speaker Larry Householder, Neil Clark, Juan Cespedes, and Jeff Longstreth all were arrested and charged in connection with the \$60 million scandal. After the release of the scandal information, the FBI indictment expressed how no media had made the connection that First Energy Corp. was organizing the 2019 petition circulators.

The Dispatch, The Daily News, The Plain Dealer, nor The Enquirer had any information connecting the major corporation to what prosecutors have labeled as "the largest case of public corruption in state history."

Although major local and national media outlets were unable to identify the connection that First Energy Corp. had to the scandal, one smaller publication did. Cleveland-Marshall College of Law's The Gavel, a law student ran newspaper, covered the story in its November 2019 publication.

Danny, a petition circulator in support of HB6, expressed how he was told by those who hired him that he was circulating petitions for "the electric company" [First Energy].

So now that HB6 has been connected to the largest public corruption in Ohio's history, what happens to HB6 which is still in affect? Media outlets have reported that the House and other government officials have yet to identify what steps would be made if the corrupt energy bill is repealed.

It is still unclear as to whether the pre-HB6 policy and Renewable Portfolio Standards ("RPS") in the state will be re-implemented. Ideally, for parties of the renewable energy market, RPS should be raised to higher percentages that would ultimately allow for an increase in Ohio's renewable energy usage and clean energy creation.

## Pay Your Parking Citations with Peanut Butter!

Aimee Fanter Editor-in-Chief

Attention students! The Cleveland State University Parking and Transportation Services Department will be collecting peanut butter donations for its Fifth Annual Food for Fines Campaign.

The campaign, which supports CSU's Lift Up Vikes! Resource Center and Food Pantry, will be held Monday, November 2, through Monday, Novem-

Parking citations issued between July 1 and November 30, 2020, are eligible to receive up to a \$45 credit with a contribution of 100 ounces of sealed/unopened peanut butter. Lift Up Vikes! prefers 16-ounce jars to assist more students.

Citation credit of \$45 is available for each 100 ounces donated. Donation credit is not applicable for citations already paid

and credit is not issued for ounces over 100. Citations must be paid in full to receive the credit.

Payment and donation must be received during the collection time to receive credit, even if the citation is under appeal. Donations exclude boot citations.

Please note, you do not need to receive a parking citation to donate to the campaign.

All members of the campus community are

encouraged to support Lift Up Vikes! by dropping off peanut butter donations to the CSU Parking Office before November 30, 2020. Note, the office is closed for University holidays.

This is the fifth year CSU Parking will be hosting the Food for Fines Campaign. During the past five years, the effort has collected over 20,000 ounces of peanut butter.

Let's make this year even better!

#### **Election**

From Page 1

to create 10 million new jobs in 10 months, and is also promising new tax cuts if he is re-elected.

#### **Education**

Biden wants to make college tuition free for anyone attending public colleges, historically black colleges, and minority serving institutions if their family makes under \$125,000.

He also proposes canceling immediately \$10,000 of every American's student debt. Biden also wants to make the first two years of community college tuition free, and to make universal pre-kindergarten.

Trump believes in school choice, and would establish more charter schools in the nation. He plans to spend more than \$5 billion to further school choice. He also wants to establish a "Patriotic Education" system, which would educate children about American Exceptionalism.

#### **Foreign Policy**

Biden has stated that under Trump, Americans have been losing and abandoning our alliances



in Europe. Biden has vowed to repair relations and rejoin with our allies in Europe. Biden has stated our relations with NATO countries are strained and would review the proposed 12,000 troop withdrawal from Germany.

On Iran, Biden said he would rejoin the Iran Nuclear Deal. Biden supports a two-state solution between Israel and Palestine. Biden proposes an extension to the NEW START treaty with Russia to reduce both the Russian and American nuclear armament. Biden also wants to have a coordinated allied plan to counter China.

Trump has been skeptical of U.S. alliances after World War II. He has proposed that NATO should spend more money on defense, and has pressured Japan and South Korea to pay the U.S. for troop deployments. Trump pulled the U.S. out of the Iran Nuclear Deal, and will keep exerting massive economic pressure and sanctions for them to stop enriching uranium.

Trump wants arms control

between Russia and the U.S., and would like to extend the NEW START treaty to cover all warheads and to include China. The Trump Administration has signed peace agreements between Israel, the UAE, and between Israel and Bahrain. Trump does support a two-state solution, but the Palestinians have rejected the proposed boundaries of their state.

#### Healthcare

Biden does not support
Medicare for All, but he does support expanding on the Affordable
Care Act by providing a public
option. He also wants to decrease
prices on prescription drugs by
creating an independent commission to review prices. Biden
wants to invest \$755 billion in
elder and childhood healthcare.
Biden also supports protecting
abortion access for women.

Trump has stated numerous times that he wants to repeal the Affordable Care Act, and has already removed the individual mandate. Trump has tried to decrease prescription drug costs by putting into place an order that would lower drug prices of Medicare parts B and D, making them comparable to prices internationally.

Trump has also pledged to send \$200 cards to Americans using Medicare to supplement the cost of prescription drugs.

#### **Tackling COVID-19**

Biden wants to improve testing capacity throughout the U.S., expand access, and provide more PPE. Biden wants to establish a plan to effectively produce and safely distribute a vaccine. Biden also wants to address why CO-VID-19 has affected communities of color more.

Trump's main plan for tackling COVID-19 is to develop a vaccine by the end of the year and distribute it. Trump has pledged to have 300 doses of the vaccine by January, 2021. Trump recently recovered from COVID-19, and stated he wanted to make the drugs that made him recover more available and widely used.

#### **MOON**

From Page 1

bodies.

Also, in 2017, Luxembourg passed its own act, providing the same right of ownership to resources found in space. With significant progress in technology and policy, we find the question of who owns what in space should be answered sooner rather than later.

Many supporters of asteroid mining and appropriation of celestial resources argue that basing solutions off of Earth's history is how we should proceed in solving lunar water extraction concerns.

For example, the Moon

and Antarctica are very similar in nature. Both are sovereign territories that are protected by international treaties, and have abundant resources which are ripe for mining.

However, we have yet to perfect the legal questions surrounding mining icebergs on Earth. Icebergs have no clear legal status with regard to mining, because although protected, historically they have been mined without protests or retribution.

Will the Moon's future reflect Earth's history, or will the government be proactive in their efforts to peacefully settle the matter of celestial appropriation before a conflict arises?

## The United States Senate Race: Who will win?

**Michael Dunham**Gavel Contributor

On November 3rd, 2020, over 30 states will vote on who their United States senators will be. Every state has two senators who serve for a six-year term. Every two years, one third of the senators' terms expire. Each state votes in two of the three cycles. This cycle, Ohio has no senators up for election.

The U.S. Senate must pass every bill and resolution of Congress in order for it to become law. With a two-thirds vote, it may overturn the president's veto. It has the sole power to try impeachments.

It also has the power to ratify treaties and to confirm presidential nominees, including those to the Supreme Court. In the event that the Senate is tied, the Vice President breaks the tie.

There are many major races that could decide control of the chamber. Right now, the Republicans have 53 senators and the Vice Presidency, meaning the Democrats will need to pick up four seats to win the majority in

addition to keeping the seats they have.

Most of the seats up are Republican held, but 12 are held by the Democrats - five of which are competitive. It is likely that the Democrats will hold their seats in New Jersey and Virginia, but could lose them if Trump gets re-elected. Three of those seats are hotly contested. In Alabama, Democrat Senator Jonas is trailing his Republican challenger. It is likely that the Democrats will lose this seat, meaning they need to pick up five seats.

In Michigan, Senator Peters is in danger of losing reelection despite his slight lead. The race leans towards him, but it is close. In Minnesota, Senator Smith is up for reelection and has a moderate lead in the polls. It is likely that she will be reelected, but it's not certain. If the Democrats want to win the Senate they will need to hold at least two of these seats.

The Republicans are defending 23 seats, 15 of which are competitive. It is likely that the Republicans will hold their seats in Tennessee and Kentucky, but could lose them if the election is a landslide.

The seats in Alaska, Kansas, Missis-



Photo by Larry Lamsa / Creative Commons

sippi, and Texas lean towards a GOP hold, but could flip if the Democrats win the majority. Senator Collins of Maine, Tillis of North Carolina, and McSally of Arizona are in the closest race so far.

These races would likely decide control of the senate. Also close is the Iowa race, where Senator Ernest is trailing. Senator Gardner is not likely to win the election. Other races to watch out for is the Georgia special election, along with the races of South Carolina and Montana. The Vice Presidential Race currently leans to the Democrats.

To win a majority the Democrats will need to hold all but one seat and pick up at least four seats. Right now, the race is a tossup, but if the polls are correct the Democrats could have a 51-50 majority.





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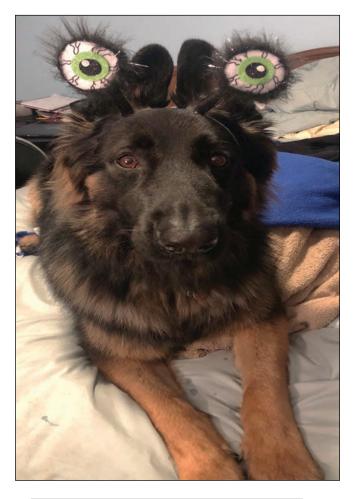


# Spooky CM-Law Pets





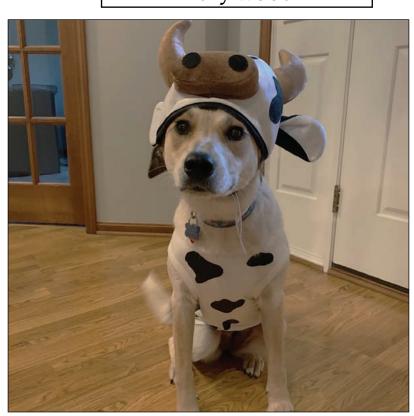
Scout (Yoda) Hailey Hillsman



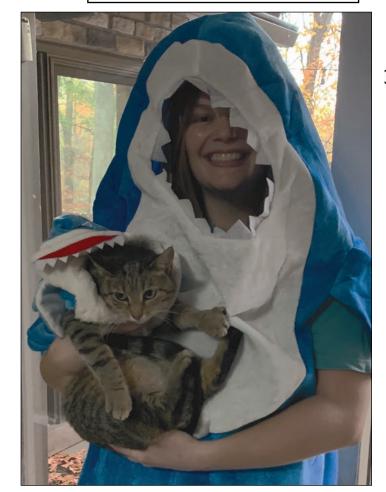
Titus (Alien) Mary Wood



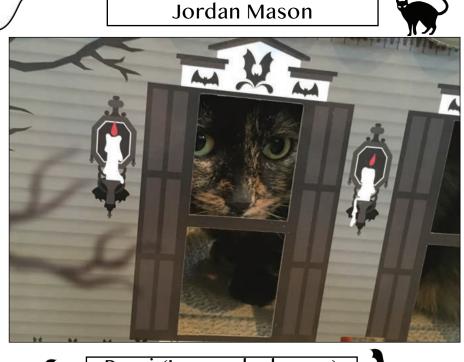
Mango (Pirate) Tori Hamilton



Logan (Cow) Jordan Mason



Olive (Sharks) Katherine McLaughlin



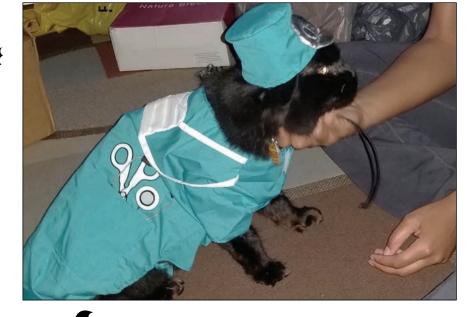
Pemi (In spooky house) Aimee Sheetz



# Spooky CM-Law Pets







Blackie (Purrgeon) Kimana Bowen



Mystic (Devil)
Catelyn Cook



Cali (Rainbow) Jordan Mason



Honey (In spooky house)
Aimee Fanter



## THALLOWEEN AND COVID-19



Halloween celebrations in Ohio looked a little different this year due to Covid-19. To help advise citizens on how to appropriately behave, the Ohio Department of Health (ODH) issued Halloween guidance to ensure Ohioans could be as safe as possible this year.

"Halloween historically in the state has been a very community event and communities set the time, so that will not change," Ohio Gov. Mike DeWine said before the guidelines were released.

The guidelines were released by Lance Himes, the Interim Director of the ODH, and encouraged Ohio residents to celebrate with caution and to carefully plan their Halloween festivities in advance. ODH recommended for Ohioans to choose socially distant options for trick-or-treating and for residents to pass out candy using socially distant methods, like holding a drive-thru or drivein event for giving or collecting candy.

"Obviously, celebrations this year will not look like those in years past," said Ohio Gov. Mike DeWine before the guidelines were released.

Some activities the ODH advised included drive-by costume contests, car decorating contests with socially distanced judges, and hiding candy and other treats inside the house as opposed to going trick-or-treating. ODH also recommended holding virtual versions of other commonly held Halloween events, such as virtual costume parties or pumpkin carving via video conferencing.

For citizens who do decide to trick-or-treat, ODH advised carrying and using hand-sanitizer often, especially if trick-or-treaters plan to eat candy while out and about. Before eating, wrapped candy should be sanitized and wiped down prior to opening. Trick-or-treaters should also try to remain socially distanced from others while walking about collecting candy.

The department continually emphasizes the importance of wearing a mask, including during Halloween, with the exception of children 2 years of age or younger, or those with a condition that makes wearing a mask harmful to their health.

While giving guidance on how to safely and effectively trick-or-treat, the ODH advised Ohioans not to attend larger, inperson parties and activities, like hayrides and haunted houses.

"When you look at the haunted houses, probably a much higher risk than the normal trick-or-treating just because of the close proximity inside those haunted houses," Gov. DeWine said before the guidelines were released.

Although advising against having or attending large Halloween parties, the department expressed that small parties with 10 or fewer people in an outdoor setting would be safe. However, partygoers should avoid party games that can spread the virus, like bobbing for apples.

While Halloween looked different this year due to Covid-19, Ohioans were still able to have a fun and safe holiday thanks to the guidance of the Ohio Department of Health.

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### Streamlined Launch and Reentry Licensing Requirements - Federal Aviation Administration

**Aimee Fanter** Editor-in-Chief

On September 30, 2020, the Administrator of the Federal Aviation Administration issued the "Streamlined Launch and Reentry Licensing Requirements" for publication in the Federal Register.

The Department of Transportation released these updated and streamlined regulations for the commercial space launch and reentry industry in response to the Space Policy Directive-2 (SPD-2). SPD-2 instructed the Secretary of Transportation to devise a new regulatory regime for launch and re-entry activities, and also considered what type of license was needed for commercial space operations.

SPD-2 received heavy criticism by those in the commercial space industry, and the FAA took notice when reviewing comments in the Notice of Proposed Rulemaking (NPRM).

Many comments from the NPRM stated the policy fell short in streamlining certain rules and procedures. Received comments continuously pointed out that the proposal of obtaining launch licenses would be too difficult or expensive for small companies, because they required legal or technical experts for small, low-risk

launches.

We see this as a common concern in the commercial space industry – the burden of regulation stifling innovation and growth.

To give an example, in the NPRM the FAA proposed to set the scope of activity authorized by a vehicle operator license by identifying the beginning and end of launch and reentry.

This was changed in the final rule, and now provides operators the flexibility to scale the beginning of launch to the operation. Specifically, the FAA will identify the beginning and end of launch on a case-by-case basis and in consultation with an applicant.

After reviewing the 785 page final rule, we see it is very different from the proposed rule. It is clear the FAA considered the comments, and took them to heart. We see their reaction is filled with caution regarding a performance based approach. Monteith, the Federal Aviation Administration's Associate Administrator for Commercial Space Transportation, gave a statement regarding the final rule.

Monteith stated, "We took parts that were prescriptive, we made them far more performance-based. In many cases, what we did was we shifted some of the prescriptive nature into an Advisory Circular. Now, an Advisory Circu-

lar is not regulatory in and of itself, but it is a means to satisfy a safety requirement. And it is only one means. If industry comes up with a better means, that we can accept and all agree on, then that becomes a means."

To make this streamlined rule, the FAA consolidated four parts of the Code of Federal Regulations (14 CFR Parts 415, 417, 431, and 435) under a single umbrella - a new Part 450. The goal of this approach is to afford the industry and the FAA the added flexibility of using new methods to better enable future innovative concepts and operations.

To summarize, the "Streamlined Launch and Reentry Licensing Requirements" increases flexibility in the FAA's commercial space launch and reentry regulations by becoming a more performance based set of regulations.

It also consolidates and revises multiple regulatory parts and a single operator's license can now be used to support multiple launches or reentries from potentially multiple launch site locations. The major parts of the rule set forth the requirements to obtain a vehicle operator license, the safety requirements, and the terms and conditions of a vehicle operator license.

The rule replaces many prescriptive regulations with perfor-

mance-based rules, which gives the commercial space industry greater flexibility to develop a means of compliance that maximize their objectives while maintaining public safety.

It is important to note, the focus on safety has not changed in the commercial space industry. What has changed is the FAA taking a performance based approach. Companies will still have to meet the safety requirements, and the question now becomes how flexible the government will be in their case-by-case standards.

The difficulty of a performance-based regulation stems from its reliance on advisory circulars to identify opportunities to capture means of compliance. Not every operator has the time nor staff to undertake those efforts.

After the final rule goes into effect 90 days after it is published in the Federal Register, it is critical to note that this is not the end.

Next, a three-day industry workshop from November 4-6 will be held where FAA experts will go through the regulation page-by-page with industry representatives to explain the intent behind each passage. There is a lot to digest from the 785 page rule, and many questions remain concerning how this will impact the commercial industry.

## Standard Setting for Outer Space Activities: Choice of Forums or Methods

Aimee Fanter Editor-in-Chief

On October 23, 2020, the American Branch of the International Law Association (ABILA) held a panel discussion on outer space activities titled "Standard Setting for Outer Space Activities: Choice of Forums or Methods."

The panel centered on the theme of international law in challenging times, and featured discussions on the legal process for space activities.

NASA's Mike Gold kicked off the panel by driving home the goal that we, the United States, have major plans for the Moon. The Moon has always been a source of exploration and excitement, and is bringing countries together with the ambition to create a safe, peaceful, and prosperous future.

This is what the "Artemis Accords" is about. According to NASA, the Artemis Accords is a shared vision for principles, grounded in the Outer Space Treaty of 1967, which aims to create a safe

and transparent environment which facilitates exploration, science, and commercial activities for all of humanity to enjoy.

It is an agreement between agencies and developed by foreign ministries involving robust conversation and diversity.

It is the framework for cooperation with other countries on the surface of the Moon. At the core of the Artemis Accords is the requirement that all activities will be conducted for peaceful purposes, and calls for partner nations to utilize open international standards and strive to support interoperability to the greatest extent practical.

Gold described the principles as multi-country, and the contributions as bilateral. The bilateral structure of the Artemis Accords broadens the number and types of nations the United States can work with, and because of the bilateral nature of contributions - no matter how large or modest the contribution – a country can be a part of the program.



Photo by NASA HQ / Creative Commons

Countries would have to abide by a series of principles if they joined, but these principles are all grounded in the OST, rescue agreement of astronauts, and other international space treaties. These are obligations that either currently exist or are norms of behavior that NASA has traditionally utilized.

The Artemis Accords is a positive step by NASA's programs to encourage international cooperation, but it is only the start. There are many hurdles to overcome as we progress as a space faring nation.

For example, the Artemis Accords is an agency agreement. It does not have the status of a treaty.

It also only binds civil activities in the United States. It does not limit the government in any other space activity. Internationally, this can be an issue. These are political commitments, not legal commitments.

How does this bind other nations, and what are the consequences for breaking these commitments? What are your thoughts?

One point made during the panel was that while it would be nice to have an agreement that explored every possible concern or option, that just is not possible. We have to take what we have, and abide by important principles to avoid conflict.

It is our goal to preempt conflict before it happens, because most conflicts that occur on Earth are from misconceptions. NASA is taking caution with regard to the Artemis Accords, because they do not want to stifle innovation.

This is a balancing act that realizes science and commercial activity are not a dichotomy.

## Racial Justice Task Force: How to Make CM- Law More Equitable for All

**Gabriella Russo**Gavel Contributor

Back on June 11th, 2020, Dean Fisher issued a Call to Action to address racial and social justice, and anti-racism. Dean Fisher said, "I committed to spending the 2020-21 academic year deepening our collective understanding of social and racial justice issues, identifying possible solutions, taking effective action, and expanding and enhancing our resources."

The Racial Justice Task Force consists of students, faculty, staff, and alumni to ensure that the Call to Action is implemented. There are four Racial Justice Work Groups: Training and Education, School Climate, Community Conversations, and Public Action. Each Work Group is co-chaired by a student, faculty member, and staff member.

2L, Tayler Gill is the student chair of the School Climate Work Group. This group is tasked with creating a more inclusive and supportive environment at CM Law.

Some of their duties include exploring ways to implement and support the 2018-2021 Strategic Plan related to the law school's efforts to recruit and retain diverse students, develop a CM Law Climate

Survey(s) to garner feedback from the law school community of faculty, staff, and students, consider how to implement feedback from the survey, and help ensure our academic, bar prep, career, professional, social, and community support systems for students are effective, inclusive, and welcoming for all. Each of the Work Groups has multiple duties. The above list is not exhaustive.

When reached for a quote, Gill said, "I founded the Racial Justice Task Force over the summer to enhance diversity and inclusion here at Cleveland-Marshall College of Law. After the tragic deaths of George Floyd, Breonna Taylor, and Ahmaud Arbery, I found it imperative that our law school community do everything in its power to work towards racial justice and equality for all in not only the Greater Cleveland Area, but our nation as a whole. It starts with us!"

Gill has been very important in building a narrative of change at CM Law when it comes to racial equity.

Gill went on to say, "In order to foster change, there must be a proper 'diagnosis' of the problem. I plan to continue working with students and listening to their concerns regarding diversity, inclusion, racial climate,

and more. This allows us to work with raw data, bettering the likelihood of the change being lasting. Initiatives need purpose, and the purpose must be gained from the student body. Further, by involving students heavily in the process, there is a certain level of transparency and open communication between the administration and the student body. I think this will keep students motivated and hopeful that our law school community is moving towards a great and bright future. Lastly, we will continue to host important discussions and teach-ins such as #SAYHER-NAME, to better educate our law school community on these issues. Students value and appreciate these discussions in and outside of the classroom, so the RJTF is going to continue to facilitate these discussions."

Gill's voice is crucial in the running of the RJTF, and there will be more sponsored events during the remainder of this semester and others. The Racial Justice Task Force is integral to the betterment of CM-Law, as are students like Gill.

To learn more about the Racial Justice Task Force visit: https://www.law.csuohio.edu/meetcmlaw/noroomforsilence.



# **CM-Law Hosts Juvenile and Family Law Panel**

**Catelyn Cook** Editor-in-Chief

The panel on Juvenile and Family Law exposed CM-Law students to a new field of advocacy. Each speaker offered their own unique perspective, but all tended to stress the importance of helping the youth get on a healthy path to success.

Judge Ryan explained that the most important experience needed to do this job does not focus on only one set of skills. Instead, lawyers need legal, personal, and social work experience to serve as a judge in juvenile court if they want to be best able to understand those who come before them and make a difference in their lives.

He stated that the goal of juvenile court is rehabilitation in order to help children get access to a better life, rather than punishing them. He deals with cases involving abuse, neglect, dependency, custody, visitation, child support, and abortion.

Speaker Tonya Whitsett discussed her work with Legal Aid. She believes that the most rewarding result of this work is helping a family move from poverty to stability and sustainability. The goals of Legal Aid are to help keep parents and children safe, secure financial resources like child and spousal support, engage in special education advocacy and planning, and address school discipline issues.

School discipline issues in particular are important, because they can be serving as a masking effect for bigger problems, like learning disabilities.

Legal Aid wants to address the real issue instead of disciplining the child. Some other

issues children face are homelessness, trouble enrolling in school, language access or barrier issues, impairments or disabilities, and termination of supplemental security income based on disability allegations or medical improvement. Since 1 in 6 children live in poverty in the United States, these are common issues that need to be addressed in order to create better, more stable futures.

Sarah Gatti from the Public Defender's Office talked about her work on custody cases, child welfare, and agency cases. Here, attorneys represent parents, who are entitled to counsel since having a role in a child's life is a fundamental right that cannot be deprived without due process.

These attorneys advocate for parents in order to reunify families and obtain the best result for the children involved. They respond to cases on an emergency basis, and may only have 10 to 15 minutes to prepare and speak with families involved in these cases. When litigating, the focus is on the status of the child.

They must determine whether the family can care for the child now, why or why not, and how they can get to that point. They must then help the families to make a plan on how to get their children back, whether it is through getting a job, participating in classes or counseling, or finding a place to live. This can cause the cases to take a long time to resolve.

Leah Winsberg used to do work with social services helping younger children with behavioral and mental health needs caused by trauma from the home. This also included youth who had barriers that caused them to

drop out of high school, such as incarceration when young, homelessness, and severe disability. In order to address the need for a successful transition to adulthood, Leah wanted to get more involved in policy.

She recognized the need for bigger picture policies upon seeing many different faces with the same issues. She is now trying to institute more programs for representation in child support cases, reduce solitary confinement, and establish a healthy transition to education and work.

All panelists agreed that it can be challenging to find a healthy work life balance with this career. Judge Ryan often refers to the children he helps as his kids.

The problems facing the children involved is something that you carry with you as an attorney, which is not necessarily a bad thing. This is because you need to put a lot into this work and feel connected to it in order to really help make a difference. Tonya Whitsett ensures staff can address struggles they are having by offering counseling on secondary trauma exposure and how to handle it, or allowing them to be taken off of cases that hit too close to home.

Overall, this panel offered insight into both the struggles and rewards of working with children and families to ensure a brighter future. It also showcased the ways in which CM-Law students can get involved, whether by reaching out to the panelists directly, working for Legal Aid, applying to the Public Defender's Office, or participating in the Community Advocacy Clinic run by Professor Pamela Daiker-Middaugh who hosted this event.

# Justice Amy Coney Barrett's Confirmation

Catelyn Cook Editor-in-Chief

Amy Coney Barrett was nominated by President Trump on September 29th to serve as a Justice on the United States Supreme Court following the passing of Justice Ruth Bader Ginsburg. Judge Barrett has had much success in her life thus far. She attended Notre Dame Law School where she graduated at the top of her class. After this, she worked as a law clerk for Justice Scalia, practiced law at a firm, and taught as a professor before becoming an appellate court judge. Additionally, she is also a wife and mother to seven children, two of which are adopted.

Her nomination has been controversial in light of the looming election on November 3rd. Senate Republicans were anxious to approve and confirm Judge Barrett before President Trump's current term ends in order to further secure a conservative majority. Senate Democrats disapproved of this nomination in light of the prior refusal of the Republican led senate to confirm former President Barack Obama's nominee, Merrick Garland.

Some liberals fear that Judge Barrett will help in overturning things like the Affordable Care Act, Roe vs. Wade, and LGBTQ marriage rights. It is also believed that her nomination could impact issues like gun rights, business, and the environment. It is also a possibility that she could end up deciding the presidency in the case of a contested election. Judge Barrett has attempted to reassure the people that she will act independently of the White House and Congress, instead keeping an open mind on the issues before her.

Judge Barrett is an originalist, believing that the Constitution should be interpreted the same way the framers would have. She described originalism as, "an exercise of trying to think your way into the minds of the framers and say 'How would James Madison approach

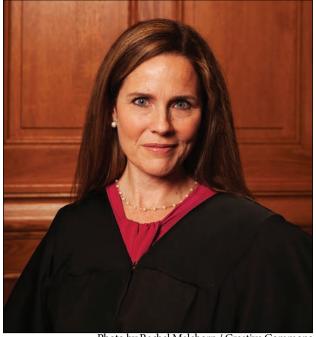


Photo by Rachel Malehorn / Creative Commons

this problem?" or 'How would Thomas Jefferson approach this problem?" She feels that originalism offers guiding principles, rather than direct answers to individual judicial questions. She has stated that, "In some respects we should look at that inflexibility as a good thing. We don't want an entirely flexible Constitution because then we would have no constitutional protection at all."

During the confirmation process, both parties were given the opportunity to question Judge Barrett on the issues they believe matter. In the hearings, Judge Barrett tended to stay impartial on issues instead of stating her stance, a common tactic of nominees.

However; when it was suggested that she should recuse herself in the event of a case involving the election, Judge Barrett was firm in her response saying, "I certainly hope that all members of the committee have more confidence in my integrity than to think that I would allow myself to be used as a pawn to decide this election for the American people." Some other questions consisted of her faith, and abortion.

With faith, she was asked, "Can you set

aside whatever Catholic beliefs you have regarding any issue before you?" She responded, "I have done that in my time on the 7th Circuit. If I stay there, I'll continue to do that. If I'm confirmed to the Supreme Court, I will do that still." With abortion, she stated that Roe vs. Wade is not a "super precedent" that is so established it will never be overturned.

Following questioning, the Senate Judiciary Committee comprised of 12 Republicans and 10 Democrats approved the nomination of Judge Barrett, with all Republicans voting in favor and Democrats boycotting the vote entirely. On October 26th, the full senate voted 52-48 to confirm Judge Barrett to the Supreme Court.

The vote took place along party lines, with only Republican Senator Susan Collins of Maine voting against it. This gives the court a 6-3 conservative majority, with Justices Roberts, Thomas, Alito, Gorsuch, Kavanaugh, and Barrett on the conservative side and Justices Breyer, Sotomayor, and Kagan on the liberal side.

Democrat Chuck Schumer called this process, "the most illegitimate process I have ever witnessed in the Senate." Contrarily, Democrat Dianne Feinstein stated that, "This is one of the best set of hearings that I have participated in." Republican Mitch McConnell was enthusiastic about the nomination, responding that, "We've made an important contribution to the future of this country."

Regardless of the decisions that Amy Coney Barrett makes as a Justice on the Supreme Court, it is clear that history has been made with this confirmation. Her presence on the Court will have a lasting impact for years to come. Justice Barrett is highly successful, and a role model for women to aspire to. She will be serving as an example of what a lawyer can become, as well as demonstrating the possibility of obtaining a healthy work life balance as a mother while achieving professional goals.

### Senate Bill 372 - Holocaust and Genocide Memorial and Education Commission

**Aimee Fanter** Editor-in-Chief

A new bill was introduced in Ohio this past month. State Senator Michael Rulli (R-Salem) introduced legislation that would create the "Holocaust and Genocide Memorial and Education Commission" to help cultivate knowledge and understanding of a tragic part of world history.

The legislation, Senate Bill 372, was drafted by Senator Rulli after he read a surprising study about young Ohioans. Out of all the states, Ohio was ranked 32nd in Holocaust knowledge by millennials and GenZ.

Sentor Rulli stated: "Given the heightened tensions in our nation, I believe now more than ever we need to help educate the next generations about how horrors like the Holocaust can be perpetrated by even the most civilized and sophisticated people. We know that simply pledging to never forget is not enough as sadly, genocide continues to this day. My hope is that Ohio's youth will become enlightened as a result of this legislation to avoid such atrocities from ever happening again."

The proposed 15-member group is comprised of legislators, state officials, educators

and researchers with the goal of improving widespread understanding about genocide.

Those involved would be studying existing memorials in Ohio, as well as the programs and initiatives to fill the gap in the public's understanding.

Senator Rulli hopes to partner the Commission with other organizations, such as the Nancy and David Wolf Holocaust and Humanity Center in Cincinnati, the National Veterans Memorial and Museum in Columbus, the Maltz Museum of Jewish Heritage in Beachwood and the National Museum of the U.S. Air Force in Dayton.

Unfortunately, the lack of knowledge surrounding the Holocaust and genocide today isn't uncommon. While many Americans believe anti-Semitism exists, they have little to no knowledge about the atrocities of genocide.

According to a nationwide survey on Holocaust knowledge and awareness conducted in 2020, around 1-in-8 millennials and members of GenZ have never heard of the Holocaust, and those that have heard of it, 1-in-4 believe it is a myth or greatly exaggerated.

With increasing neo-Nazi groups and heightened political tensions in our nation, basic facts about the Holocaust are misappropriated and disregarded.

Howie Beigelman, Executive Director of the Ohio Jewish Communities commented, "This bill, led by Senator Rulli, and so many bipartisan co-sponsors, will help leverage Ohio's schools, teachers, and community resources to teach this critical history. Ohio Jewish Communities and our member federations commend Senator Rulli for his leadership. We are ready to work with the General Assembly and Governor DeWine to make this commission a reality."

Surprisingly, one of the co-sponsors of the Commission is Senator Andrew Brenner (R-Powell). Brenner faced wide-spread criticism in a Facebook post in April 2020, where he stated he would not let Dr. Amy Acton - the Ohio State Health Director, who is Jewish, turn Ohio into Nazi Germany.

Brenner later apologized for his actions, and offered his support in creating the Commission. When we learn of events like this, it is essential to recognize and understand bias—whether it's towards a race, religion, sex, etc. In order to grow, we must work on overcoming bias in our community and show support to those affected by it.

Write for The Gavel: E-mail submissions to gavel@csuohio.edu