3-2002

2002 Vol. 50 No. 3

Cleveland-Marshall College of Law

The phoenix from the pyre

Long after the Civil Rights-era riots, rehab of buildings like this in Hough demonstrate melding old and new.

LAW, PAGE 2

Baybee, oh baybee!

Bored in class? Disappointed with your grades? Hunger pains hitting you midday? Stop putting life on hold and get pregnant. Law school and pregnancy go hand in hand.

OPINION, PAGE 6

Buried by the Bar

Debunking the myths of the bar exam may be your first step toward success. C-M alum, Marc Rossen, separates the facts from the fiction.

CAREER, PAGE 4

THE GAVEL

VOLUME 50, ISSUE 3 MARCH 2002

THE STUDENT NEWSPAPER AT CLEVELAND-MARSHALL COLLEGE OF LAW

The Gavel garners gold again

By Gavel Staff

The Gavel, the Student Newspaper at Cleveland-Marshall College of Law, was recently bestowed with the Columbia University School of Journalism's Scholastic Press Association Gold Medal.

The award was based on a national juried competition with a total of 1000 possible points for; Concept, Presentation and General Operations. *The Gavel* received a total score of 995, garnering "*All Columbian*" honors in all three categories.

The competition fielded entries from across the nation and included papers from graduate and undergraduate institutions. A jury of New York journalists and Columbia University journalism faculty reviewed and judged the entries.

The awards won by *The Gavel* were conferred at a banquet at the Roosevelt Hotel in Manhattan on March 16, 2002.

ED PEKAREK—GAVEL

C-M makes Final Four

By Gavel Staff

A Cleveland-Marshall Moot Court team finished in the final four in the country for the first time in C-M history. The team of Peter Traska, Denise Salerno and Nancy Berardinelli (shown above in a C-M Moot Court intramural tuneup) took the coveted spot in this year's nationals competition in New York City. The "nationals" is the oldest moot competition in the United States.

The Moot Court night at C-M was attended by over 300 people and was judged by U.S. District Court Judge Edmond J. Sargus, former U.S. Congressman Louis Stokes and C-M law professor and former Moot Court advisor, Stephen Werber.

Resnick recalls Court campaign

No control over anonymous mudslinging in campaign advertising, Justice says.

By Ed Pekarek
GAVEL EDITOR

Both opposing candidates in one of the most controversial Ohio Supreme Court Justice elections in history appeared at the Judicial Independence Public Forum at Cleveland-Marshall recently. One judge was expected to appear, the other was not.

ED PEKAREK-GAVEL

Justice Resnick

The event, sponsored by the League of Women Voters of Cleveland, featured Justice Alice Robie Resnick in a discussion exploring campaign finance policy tensions.

Resnick's opponent in the big budget 2000 campaign, Judge Terrence O'Donnell, Eighth Appellate District, viewed Resnick's remarks quietly from the back row of the Moot Court Room.

Resnick ran her first judicial campaign in 1975, running for municipal judge in Toledo.

Resnick's meteoric assent to Columbus and Ohio's highest bench was not without impediments. She made the trip to C-M to impart to the audience concerns about the current electoral standards for judicial candidates, term limits and the tension between free speech and campaign finance reform, stating that "30 second spots win elections."

While that is often the case, a coalition of anonymous donors dubbed "Citizens for a Strong Ohio," and established by the Ohio Chamber of Commerce, funneled over $4 million in negative campaign advertising

See **CAMPAIGN,** page 2

Alum, architects, faculty and students focus on revamping C-M

By Colin Moeller
NEWS EDITOR

A recent donation from Bert L. "Bart" Wolstein '53 prompted C-M's enlisting a local architectural firm to examine ways to update and renovate the law building.

While the initial allocation of funds is geared solely at completing the study, Steven Steinglass, dean of C-M, said he hopes future grants and donations will allow the results of the study to take shape into actual renovations in the future.

CSUOHIO.EDU

Bart Wolstein '53

Steinglass, along with Associate Dean Jack Guttenberg and Professor Thomas Buckley announced the renovation study to leaders of C-M student organizations at a Dean's breakfast held Feb. 7. "The goal of the project is... the most functional and aesthetic plan accepted by most people," said Steinglass.

Akron based Brown & Steidel was selected by C-M from a pool of 20 candidates to complete the study. "What's exciting about these architects is they like to listen," said Steinglass.

The study is expected to consider concerns and suggestions of C-M students and faculty."What's exciting about this project is we are looking at everything. Everything is on the table, from the air to lighting to the flow of people," Steinglass said.

"This study will have a major impact on what the school will look like in the next ten to twenty years," said Steinglass. Steinglass acknowledged that while future renovations will not have a direct impact on current students, their input is important because students use the building on a daily basis. Steinglass also said that any improvements to the school will enhance the value of a C-M degree.

Furthering the objective of including student input in the study, Brown & Steidel conducted focus groups with students and faculty Feb. 14. The architects centered the discussion around questions on the building's functionality, quality upgrading, enhancing the C-M image and practical educational necessities.

Comments offered by focus group participants ranged from a desire to make the law building brighter to updating the school's technology resources. 3L Sarah Lally said she would like to see the main building take on the form of the new law library. "Whenever I show anyone where I go to school, I try to direct their attention right to the library because I am proud of the way it looks. I try to divert attention from the rest of the law building."

Students also indicated a desire for increased locker space and study areas throughout the building, including study areas outside the library where students could talk and eat. Students also voiced a need to make the building more "user-friendly" with more directional signs to classrooms and offices in addition to a reception area at the building's entrace.

Another suggestion focused on establishing a "general store" where students could buy newspapers and school supplies, mail letters and send faxes. Personal safety was a significant concern expressed by many students. Students urged for more lighting on the path from the parking garage in addition to increased security and lighting in the garage itself.

Steinglass, Guttenberg, Buckley, Associate Dean Michael Slinger and Budget Director Vicki Plata visited Washington, D.C. campuses to learn how recent renovations improved those schools' space, traffic flow and aesthetics. The renovation study is scheduled to be completed in June, although according to Steinglass there is no "per se" deadline.

Moeller is a 1L.

THE GAVEL Law

March 2002

C-M's new look

By Steven H. Steinglass

In 1977 when the Cleveland-Marshall College of Law, newly merged with Cleveland State University, moved onto the corner of East 18 and Euclid Avenue, its new home was a campus showpiece. Over the past three decades, however, our building has begun to show its age. So, it is a great pleasure to announce that we have received a generous gift from our alumnus Bert L. Wolstein '53, allowing us to hire an architectural firm to consider ways of updating the building. Recently, members of the firm held focus groups allowing students, faculty and staff to tell the planners what they would like to see altered in the law school's interior.

The Dean's Column

A few general comments seemed to emerge from all the meetings. The need to incorporate technology in classrooms and throughout the building was a consistent theme throughout the meetings. Many people mentioned the absence of light in the atrium; many commented on the gray stonewall staircase leading from the ground floor up to the atrium; many also voiced displeasure with the air quality in the classrooms and offices—excessively hot or cold or just plain stuffy. Some mentioned the difficulty of seating handicapped people in the Moot Court Room; some suggested recarpeting the Moot Court and the "Garden Terrace" rooms. Administrators hoped rooms could be reconfigured to create a conference room with advanced technology and a sizable kitchen, and faculty expressed a wish for a larger, more usable lounge. Students faulted the small lockers and the narrow space between the rows of lockers. Others hoped the plans would include a modern trial court room, and many commented on how recent art acquisitions in the Atrium and the mural in the students services area brightened those areas and spaces—a trend they hoped would continue.

Feb. 19-21 Associate Deans Jack Guttenberg and Michael Slinger, Professor Thomas Buckley, Budget Director Vicki Plata and I visited Washington, D.C., area law schools to find out how they addressed space issues. This visit and suggestions offered by the law school community will help create a law school that is accommodating and aesthetically pleasing.

Steinglass is dean of C-M.

Hough: coming back from the brink

By Colin Moeller
NEWS EDITOR

At the intersection of Hough and East 79th Street, an obelisk emerges from the ground. Etched into its stone is the name of the neighborhood it represents; Hough.

For the residents of Hough, the obelisk was erected as a symbol of renaissance. It stands as a symbol of movement back to the pride attributed to the neighborhood in its infancy and a movement away from the days of neglect, crime and abuse of civil rights, leading to the Hough Riots of 1967 which left four dead, 30 injured, and resulted in more than 300 arrests and 240 arson fires.

What remains unclear, is whether the renaissance symbolized by the obelisk will become reality or whether tensions between new and lifetime residents will create a stalemate of realized potential.

The location of the obelisk is significant. Reports indicate it was at this intersection where the Hough riots began when the owner of the Seventy-Niners Cafe refused a glass of water to an African-American resident. This intersection is also the site of the Lexington Village townhouse complex; one of the first signs of reinvestment.

A visit to the Hough clearly indicates that attempts have been made to reinvest in the neighborhood. On East 79th Street and Euclid Avenue sits Church Square shopping center; a recent addition to the neighborhood. Half-million dollar homes, rehabbed homes and apartment complexes are also additions since redevelopment began in the early 80s.

CLEVELAND PRESS, CSU ARCHIVES

Revitalization efforts hang in delicate balance...

...with the shadows of the past.

Images from the riots stand in stark contrast to new developments and suburban-style homes.

COLIN MOELLER--GAVEL(2)

These developments point to a re-emergence of the middle class in the neighborhood; the middle class abandoned the area by World War II, taking with it, Hough's economic stability. With the departure of the middle class, concern and support from city government and services, building tenants and business developers evaporated. Lack of concern propelled the neighborhood into a downward spiral of economic and social decline characterized by the U.S. civil rights commission as among, "the very worst in the nation."

Despite the return of the middle class and new housing, Hough remains one of Cleveland's poorest neighborhoods. Boarded up homes, empty lots and abandoned store fronts indicate Hough has not completely emerged from conditions leading to civil unrest in the 1960s. While Hough is peppered with new homes, the vast majority are in disrepair.

The Maxine Goodman Levin College of Urban Affairs, Housing Policy Research Program & County Auditor's Data indicate that in 2001, 94 percent of the homes in Hough had a market value of under $40,000 with nearly 74 percent of the homes valued under $20,000. Houses with a value of $100,000 or more constituted only 1 percent. This indicates that while efforts focused on resurging the middle class into Hough, little has been done to elevate conditions for lifetime residents.

Recently, the Cuyahoga Metropolitan Housing Authority and the Cleveland Housing Network Inc. proposed a plan for new low income housing on lots reclaimed by the city of Cleveland through tax foreclosures. According to the *Plain Dealer*, the plan received opposition from residents who invested in new homes. Opposition stems from fears that such a plan would be detrimental to the property value of new homes. Although a compromise was struck to build low income housing beyond the newer homes, the *Plain Dealer* report states the plan is still poorly received.

While evidence of revitalization in the neighborhood exists, tension between the desires of new middle class residents and the needs of poorer residents prevent the neighborhood from moving further. Hough's diverse economic make-up demands a comprehensive plan for revitalization encouraging investment by the middle class in conjunction with a plan improving the standard of living for poorer residents.

Such a plan has yet to transpire. Until then, the symbolism and hope embodied in the obelisk protruding from the ground will remain intangible; full of potential but never fully realized.

CAMPAIGN: Electoral rules handcuff judicial candidates, not interest groups

Continued from page 1 --

focused on Resnick's Supreme Court candidacy. The ads attacked her record and integrity with suggestions that her rulings were influenced by campaign donations from trial lawyers and unions. However, the media circus did not achieve its purpose as Resnick defeated O'Donnell, 57 to 43 percent.

Resnick described the loophole permitting organizations such as "Citizens for a Strong Ohio" to comment on judicial campaigns, while the Code of Judicial Conduct's Canon Seven precludes judicial candidates from directly rebutting the attacks. "I saw their campaign return recently and because they claim 'educational' status, they aren't held to the same level of disclosure as other campaign donors." Resnick attempted to juxtapose the educational aspirations of the group with the ads themselves, but repeated technical problems stalled that effort.

Resnick attributed the behind the scenes campaign influence safe harbor to the U.S. Supreme Court (*Buckley v. Valeo*). *Buckley* permits freedom of association and speech in political campaigns by private citizens and holds campaign advertising deemed, "issue advocacy," to a mere libel/slander standard. "Issue" speech is distinguished from "expressive" speech by what Resnick called, "magic words and phrases such as; vote for, elect, defeat, et cetera." "Express" advocacy is held to a stricter standard of disclosure and content regulation. Resnick's frustration with the double standard was evident. "The Chamber could say anything they wanted without disclosing who were its donors, something clearly not within the spirit of Ohio's election laws. The whole problem with this type of advertising is that there is no control."

Ohio State Univ. Law Professor David Goldberger, expanded on the dilemma between "issue" and "express" advocacy. "What stunned me was the ad hominem attacks from people with pecuniary interests in her (Resnick's) defeat. Issues presented in the abstract are allowed to be spoken without any restrictions."

Goldberger noted the "gagging" effect of electoral rules for judicial candidates. "Judicial elections are different from all others. A judge may not make a speech on how he would vote on an issue while in office. They are not permitted to comment on pending proceedings. A Justice is effectively gagged," he said, "[the rules] perpetuate voter ignorance, where the less the public knows about the candidate, the better. It is unlike any other type of election."

According to Goldberger, corporations have free reign to influence campaigns. "They can say anything they want, any innuendo, any allegation and the candidate is left fighting with one arm tied behind their back. It is a trend that empowers third party advocates in elections," he said, "candidates from both sides don't get into the gutter fight."

O'Donnell slipped out of the event during Resnick's closing remarks, but stopped to share some insights with the *Gavel*. O'Donnell was similarly frustrated by the *Buckley* standard and the "public's perception of a one-on-one campaign." The Eighth Circuit Appellate Judge expressed almost identical concerns as Resnick, "a candidate has absolutely no control over issue advocacy [from anonymous advertisers] and it has certainly created statewide concerns." O'Donnell said he felt "handcuffed" by the restrictions imposed uniquely on judicial candidates. "When I had been asked to comment on positive ads about my campaign, I responded I shouldn't comment on them. How could I then later comment on the negative ads?"

When asked about Resnick's comments, O'Donnell said, "I was very pleased that she drew distinctions between my campaign and independent groups." O'Donnell insisted he had no contact with the Chamber. "I don't even know those people. I wasn't involved in, nor approved any of the ads that they ran. But, every individual has the right to free speech. I do hope the Supreme Court considers amending the rule to allow candidates to comment when facing such situations."

Steinglass: tales from the U.S. Supreme Court

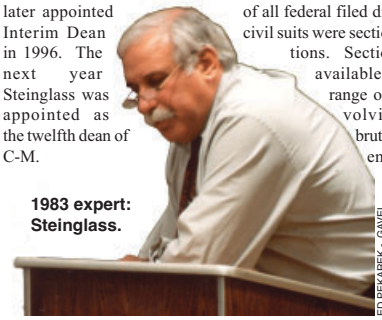
By David Milite
STAFF WRITER

Widely recognized and respected in the legal profession, Dean Steinglass displays a multitude of significant professional accomplishments which have enabled him to lead our law school into the 21st century.

His curricula vitae is filled with accolades as a student, practitioner, professor and chief administrator of C-M. In 1964, Steinglass graduated from the Wharton School of Business at the University of Pennsylvania. Three years later, he graduated from the Columbia University School of Law and began practicing law in Wisconsin shortly thereafter.

As a Reginald Heber Smith Fellow he served as a staff attorney and eventually directed the state's largest legal services program known as Legal Action of Wisconsin. While practicing in Wisconsin, Steinglass also lectured at the University of Wisconsin School of Law and later joined the C-M faculty in 1980. The focus of his teaching specialties include; civil procedure, federal jurisdiction, section 1983 litigation and state constitutional law.

Steinglass is a nationally known expert in section 1983 civil rights litigation and continues to lecture throughout the country at CLE and judicial education programs. Steinglass has authored numerous articles, book chapters and perhaps most significantly, *Section 1983 Litigation in State Courts*, a leading treatise on civil rights litigation. Moreover, Steinglass has also appeared twice before the U.S. Supreme Court, *Board of Regents v. Roth*, (1972) and *Felder v. Casey*, (1988). He was Associate Dean of the College of Law beginning in 1994 and was later appointed Interim Dean in 1996. The next year Steinglass was appointed as the twelfth dean of C-M.


ED PEKAREK - GAVEL

1983 expert: Steinglass.

The Gavel spoke with Steinglass about his experiences as a litigator prior to joining the C-M faculty and eventually becoming dean of C-M.

Q: What inspired you to become a lawyer?

A: It was something that evolved. During the latter part of undergraduate school, although I had a business background, I viewed law as a public, respectable and prestigious profession and wanted to pursue a career in public service. As a result, I gravitated into the law school and the legal profession.

Q: What is section 1983 litigation?

A: Section 1983 of Title 42, which has its origins in the Civil Rights Act of 1871, is the most important of the surviving Reconstruction-era civil rights statutes. Under section 1983, plaintiffs may bring damage and injunction suits against defendants who act under "color of state law" in violation of federal constitutional (and some federal statutory) provisions. Once largely ignored, by 1993, 14% of all federal filed district court civil suits were section 1983 actions. Section 1983 is available in a wide range of cases, involving policy brutality, public employment, and takings (i.e., just compensation).

Q: What is behind your passion for section 1983 litigation and influenced you to become a nationally known expert in this area?

A: My interest in section 1983 litigation grew out of my practice of law in Wisconsin. My office was involved in section 1983 litigation and also had a great deal of federal court litigation. Similarly, when I taught at the University of Wisconsin School of Law I focused my teaching in the areas of civil procedure and federal jurisdiction; both areas inextricably linked to section 1983 litigation. More specifically, Steinglass said he became interested in section 1983 litigation in state courts because he is fascinated by the remedial and tactical issues that arise in section 1983 litigation. My first major article dealt with this topic and many times I thought about these issues while practicing in Wisconsin because my office many times challenged conventional wisdom and litigated federal claims in state courts. Moreover, I enjoy exploring choice of forum issues in my writing because it gives me the opportunity to reflect on previous jurisdictional and tactical issues. My first article was approximately 190 pages and later was expanded into a treatise on Section 1983 litigation. Section 1983 litigation is both practical and theoretical. I have been fortunate enough to travel the country lecturing on the topic in continuing legal education programs in more than half of the fifty states.

Q: What would you characterize as your most significant litigation experience with reference to Section 1983 litigation?

A: I have participated in numerous section 1983 cases but the two most significant are; *Felder v. Casey*, (1988), and *Board of Regents v. Roth*, (1972).

He stated that when he argued *Felder* before the U.S. Supreme Court he was already on the faculty and was a more experienced lawyer at the time. He said that *Felder* contained many issues critical and unique to section 1983 Litigation. His most highly visible case was *Roth* which dealt with due process rights of public employees and was also argued before the U.S. Supreme Court with a small litigation team of lawyers when he was twenty nine years old.

Q: What inspired you to become C-M's Dean?

A: Prior to becoming Dean, I served previously in the law school administration as an Associate Dean and was very committed to the institution, alumni, faculty and the overall legal community. I am very honored to serve as the Dean of Cleveland-Marshall College of Law, and have just completed my fifth enjoyable year.

Q: What do you enjoy doing in your spare time?

A: I really enjoy spending my spare time with my wife and kids (as was evident by the family pictures that line his crowded bookshelves). Steinglass also enjoys vacationing at his log cabin in Northern Michigan and continues to lecture and is putting the finishing touches on his latest book that focuses on the Ohio Constitution.

Milite is a 3L.

Nike strikes up a revolution

By David E. Long

The Beatles are suing to keep Nike, Inc., from walking all over them by attempting to prevent Nike from playing one of their songs in a television commercial. After Reebok entered and captured a significant portion of the sneaker market, Nike became more aggressive in its advertising and marketing. Nike began playing the Beatles song "Revolution" in the television commercials. This is the first time that an original Beatles recording has been used in a commercial according to a July 29, 1987 article in the *Washington Post*. The suit filed by the Beatles, Apple Records and Apple Corp. LTD names Nike, Capitol Records, Inc. and EMI Records, Inc. as defendants. The advertising campaign began in March and the suit was filed on July 28, 1987 in a New York State Court.

From examining a July 30, 1987 article in the *Daily News Record* it appears that Apple, one of the Beatles' companies, is pleading in the alternative. First apple alleges that Capitol Records and EMI have no right to license Beatles' songs in commercials. Apple further alleges that it has not received royalties that it was entitled to from the $250,000 plus that Nikepaid Capitol and EMI Records for the right to use "Revolution" in their campaign. In the suit Apple also accuses Nike of deliberately exploiting the good name and good will of the Beatles in the advertising campaign entitled "Revolution in Motion." Nike representatives argue that Nike purchased the license to use "Revolution" legally from Capitol and EMI and Michael Jackson, who owns the company handling John Lennon and Paul McCartney songs.

Apple wants to end the campaign and seeks $10 million in damages and $5 million in punitive damages from the defendants according to the article in the *Daily News Record*. There are conflicting statements in regard to Capitol's obtaining consent to license "Revolution" to Nike. A Capitol representative states that Yoko Ono, a director of Apple, gave Capitol her consent for the company to license the song to Nike even though that consent is not mandated by law.

David E. Long was a Gavel contributing writer in 1987. This article first appeared in the Sept. '87 issue of the Gavel. It is part of an ongoing series featuring Gavel articles from the past five decades to celebrate the Gavel's 50 years.

THE GAVEL Career

March 2002

Lessons learned

What to do after less than stellar first semester grades

By Karen Mika

Legal Writing

Q: My first year midterm grades were substantially worse than I expected. Is there any hope to do better?

A: Preparing for your first posted grades in law school is unlike few other academic experiences. Professors can tell you that law school grading is different, and you can tell yourself that, but it never quite prepares a student for the "C's" (or worse) he might see, especially after a distinguished academic career.

The answer is, of course, there is hope that things will get better. How much generally depends upon what the student takes from the grades received. Clearly, if the grades are all D's and F's, the student should reach the conclusion that something major is not happening and that there needs to be serious revamping of all techniques and study habits.

If the grades are mostly C's with maybe one B, the student should think that he has the general idea, but maybe needs to do something different – perhaps in the realm of exam taking technique. If the student receives mostly grades above a C, but with one "fluke" lower grade, the student should feel confident that he probably knows what's going on, and that the one exam was, in fact, an aberration.

In all cases, students should take the opportunity to review their exams with their professors. The purpose of this review should not be to tell the professor why the exam should have received a higher grade, but to understand why the exam received the grade it did – even if the grade is perceived to be unfair, or even if the student thinks the professor's preferences seem absurd. (Does the professor detest any reference to the Hand Formula?)

If the student leaves that meeting feeling that he did exactly as the professor wanted and performed equally as well in comparison to exams graded higher, then it is unlikely that there will be any improvement the next time around.

Reviews demystify the bar exam

Don't get buried by bar exam urban legends

By Marc D. Rossen

Alumni Advice

I chose to use this forum to debunk some misconceptions concerning the bar examination. While I will focus on Ohio, much of what follows applies to any bar exam.

I wonder where students get these misconceptions. Some are based on things that used to be true about the Ohio bar examination, but due to changes in the exam and the way it is graded, are no longer true today. Some were never true but nonetheless are passed on to successive generations of law students like the urban legends you heard on the playground as a kid.

Misconception #1: Studying for the bar is all about memorization.

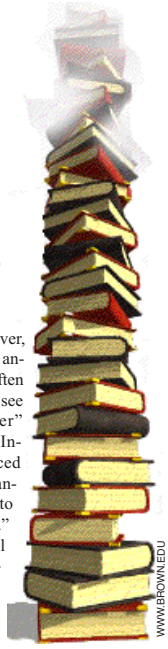
While it is true that you are required to commit to memory a tremendous amount of black letter law, that is merely the beginning of your bar exam preparation.

Fact: Rote memorization is not enough to pass the bar.

Perhaps one of the greatest myths is that merely studying an extensive outline one will develop the necessary test-taking skills. Many bar applicants improperly allocate the bulk of their study to rote memorization. A better approach would be to devote equal amounts of time to substantive review and to practice testing. It is not enough to know a rule of law. One must apply it to a variety of fact patterns.

On the essay portion of the exam, bar examiners are not looking for a regurgitation of black letter law. They expect a clear and concise conclusion based upon highly reasoned analysis communicated in a lawyer-like fashion. You cannot hone these skills without doing practice essays.

Likewise, on the multiple-choice portion of the exam, simply knowing black letter law is not enough. The MBE (Multistate Bar Exam) is a best answer choice exam. This means that when you read the fact pattern, if you memorized the black letter law, the correct answer will pop into your head. However, when you look at the answer choices, more often than not you will not see the "correct answer" among the choices. Instead you will be faced with four imperfect answers and your job is to select the "best answer." This requires critical reasoning and analytical skills developed by a significant amount of practice testing.



WWW.BROWN.EDU

Misconception #2: If you do well on the MBE portion of the exam, you do not need to worry about the essays.

Years ago, Ohio had a system whereby if your MBE score was high, they would pull two of your essays at random and if you scored well on those essays they would not read the rest. However, this system was abolished long ago.

Fact: The written portions count for two-thirds of your total score in Ohio. The MBE counts for the remaining third.

Given the increased score requirements in Ohio, you cannot afford to blow any section of the exam. Nonetheless, if the written portions account for twice as much of your score as the multiple-choice, then you must allocate your preparation time accordingly.

Misconception #3: You can blow one or two essays.

This had its origins when there were 24 essays, covering a wider range of topics.

Fact: Today there are only 12 essay questions covering a smaller set of topics. Therefore, each essay counts for a greater percentage of your overall score.

You must know enough to write about every bar exam subject area. You are expected to be able to fill at least a page and a half to two pages on each essay question.

*Misconception #4:*You can only sit for the Ohio Bar Exam three times and then you are barred from taking it again.

Fact:There is currently no limit to the number of times that one can sit for the Ohio Bar Examination.

Misconception #5: You can study for the bar without taking a bar review course if you borrow someone else's materials.

Fact: A bar review course is essential.

A bar review course will tell you which areas of the law are most likely to appear on the test and teach you areas of law you did not study in law school. It will keep your studying on schedule and give you valuable feedback when you practice test.

Do yourself a favor and take a review course. Otherwise, tell your friends and family that the bar exam is given in two parts, the first part is in July, the second part is in February. Remember, the money saved from not taking a course will be offset by the additional expense and loss of income resulting from re-taking the exam.

About Marc Rossen:

Rossen, '94 is the Director of the *Rossen Bar Review*. You can reach Rossen at:

mrossen@RossenBarReview.com

Getting student-written work published outside C-M

By Frank Scialdone
CONTRIBUTING WRITER

Scholarly articles written by C-M students are finding their way into law reviews across the country.

Non-C-M journals published at least seven student-written articles since 1999, according to Barbara J. Tyler, director of the legal writing department at C-M. With topics ranging from immigration law to sports law, Tyler said students published articles in the *University of Florida Journal of Law and Public Policy*, *Albany Law Journal of Science and Technology*, *Ohio Northern University Law Review* and *Capital University Law Review*.

Tyler, a proponent of getting students published and teacher of advanced scholarly writing, said law reviews and specialty journals are clamoring for well-written legal scholarship,

"Faculty want to get their work in the most highly placed journals as they can. So they want to be in the upper tiers. Fourth-tier law schools get few submissions, so those schools will take a really well written student article. If you've done a good job, there is almost no doubt that you will find someplace to take it," said Tyler.

Tyler said articles not selected for publication in the *Cleveland-Marshall Law Review* and *Journal of Law and Health* are excellent materials for publication elsewhere.

Mary White, a former student of Tyler's, wrote an article on patient care as it related to nursing and unions as part of Tyler's advanced legal writing class. Two days after sending her work to 10 journals, White accepted an offer from the *Ohio Northern University Law Review* which published her article in its Spring 2001 issue.

White's article tapped into her 18-year career as an urgent care nurse before law school. "It's important to pick something you are passionate about or have some experience with, because it's more fun to write about it," said White.

White said the experience has given her confidence in her writing ability. "You don't have to be in the top 10 percent of the class to get published," she said. "Have the confidence and wherewithal to go and try."

Don Resseguie, 4L, wrote an article on asymtomatic HIV patients and disability discrimination under the Americans With Disabilities Act as part of an independent study. Resseguie helped to found a local AIDS service organization and used this background to craft an article. His article will appear this spring in the *University of Florida Journal of Law and Public Policy*.

Resseguie said targeting submissions to journals catering to an article's topic saves time and money.

Resseguie used the Anderson Publishing Company's directory of law reviews at: http://www.andersonpublishing.com/lawschool/directory, to identify matches with his article.

Tyler said having a good cover letter emphasizing professional or personal experience is important. Articles should be timely, grammatically flawless, and well cited. Tyler has put her suggestions, as well as sample cover letters, on C-M's legal writing web site at: http://www.law.csuohio.edu/legal_writing/publishing.html. Tyler said *U.S. News and World Report* is helpful in locating lower-tier schools more receptive to student-written articles.

Editor's Note: Scialdone's article on employment discrimination is slated to be published this spring in Tulane Law School's *Journal of Law and Sexuality.*

Scialdone is a 3L.

THE GAVEL Opinion

March 2002

Waging one war too many

By Mathew Reiger
GAVEL COLUMNIST

Mat Rieger
The Staff Infection

While prematurely reveling in my earnings during the third quarter of the Super Bowl, I was alarmed at one of the most blatant pieces of propaganda I have witnessed in my 30 years.

An advertisement portraying a bunch of teenagers admitting they fundterrorist operations caught me as odd. At the end, a message declaring that anyone purchasing drugs funds terrorism appeared on the screen. I was disgusted and disturbed by the fact that someone would use tragedy to push political and moral views, forking out two million bucks for a 30 second spot.

I figured some right wing group of angry young parents paid for it. I let it pass despite being disgusted. Until, that is, I heard our wonderfully airbrushed president reiterate that very message last week. This time, I could not let it pass.

What a pitiful statement it makes about this country when our leaders manipulate the events of our past to fight this ridiculous "War on Drugs," which failed miserably over the last 20 years. What troubles me more, is the possibility that the suspension of civil liberties, to fight the "War on Terrorism," will slowly but surely leak its way over to fight the "War on Drugs."

It seems like George W. is trying to tell us, the "War on Drugs" and the "War on Terrorism" are one in the same. If that is the case, a suggestion that the same rules should apply to fight both seems likely. All George W. will have to do is get five Supreme Court Justices to agree with him, which is probable.

What is next? Maybe we will start gathering up people for smoking marijuana in the privacy of their own homes and charge them with complicity in the Sept. 11 attacks. Maybe we will funnel them through military tribunals.

I hope the anti-drug lords get their heads screwed on straight and realize one war is one more than we need. If our nation is at risk of terrorist attacks, perhaps it is not wise for our government to wage war against American citizens. Make no mistake about it, the "War on Drugs" is a war against Americans.

Maybe this sounds paranoid, but if there was ever a time to be a little more cautious, maybe it's now. Besides, the president told us to be on high alert.

Reiger is a 3L.

Attention students: get pregnant!

Why conception could be the answer to all your law school problems

By Melissa Stickney
CONTRIBUTING WRITER

Ever notice how law students tend to plan major life events around the law school experience? If you haven't yet heard a law student say, "my fiancee and I set the wedding date for two weeks after I take the bar," you will. Certainly, putting off life's major events while in law school has advantages. These advantages can be summed up in three words: focus, momentum and sanity.

Well, I would like to advocate the opposite approach: embracing major life events during law school. In particular, I want to encourage female students to consider pregnancy as a practical, yet innovative study aid that will boost your GPA. For the dubious or incredulous, let me explain. I was pregnant with my baby boy half way through my law school career, dramatically boosting my GPA. Now, why law school and pregnancy go hand-in-hand.

1. Recall from torts that the standard for emotional distress is lower for pregnant women. This precious factoid is especially handy when you are in an upper level course with a professor still using Socratic. "Please don't call on me," you say after the first class, "I'm easily flustered and my Ob/Gyn warned me to avoid stress. I can get very emotional."

2. Male and Female students alike offer to carry your books. Now, I know this practice seems old-fashioned. Sure, I was carrying some extra weight during pregnancy, but truth be told, the law books were always heavier. I wasn't about to say no to such offers. My good samaritan classmates surely lost sleep due to back pain. And here's the clincher: lost sleep on good samaritan's part equals muddled class preparation, resulting in lower grades, which is directly proportional to the better grades earned by pregnant woman who slept well.

3. Students, professors and even snack counter workers offer you free food. And not just any free food, but the icky-gooey junk food that makes worries melt away. The more sugary sweets one consumes, the more one's adrenalin is pumped. The more one's adrenalin is pumped, the easier tax problems are to solve and the quicker the homework gets done, giving pregnant women even more time to sleep.

4. While I won't name names, we've all taken at least one exceedingly boring law school course. Now, how many times during one of those dreary, clock-watching experiences did you want to get up and leave? Pregnancy is the perfect vehicle for fulfilling those fantasies. No one, not even the crustiest old professor, questions the legitimacy of a pregnant woman leaving the class, three to five times, to tend to her physical needs. Of course, good samaritan classmates are always willing to provide you with missed notes. Meanwhile you're roaming school eating junk food, threatening to be emotional and contemplating the nap you will take when you get home. Did I mention the advantages of sleep?

5. The prospect of labor and delivery puts the agony of finals into perspective. Admittedly, this point doesn't necessarily translate into better grades, but it does give pregnant woman the extra edge to reclaim her sanity, something students who embrace life events during law school aren't supposed to have in the first place.

Stickney is a mom and 3L.

Allies see America shooting itself in the foot

By Paul Petrus
GAVEL COLUMNIST

Paul Petrus

If you were planning to visit a foreign country and came across reliable information that the country regularly arrests and detains foreigners while failing to make the charges public, monitors certain attorney-client conversations, uses military tribunals, has an executive not popularly elected, and implements the death penalty for certain non-violent offenses, most Americans would call you crazy.

Now, that is America.

We are told over and over again that we are at war. It is amazing how Sept. 11 can be used to justify anything. While watching the Super Bowl, I witnessed an ad by the White House Office of National Drug Control Policy warning against using illegal drugs because the drug trade supports terrorism.

After reading accounts of the administration's war policies and listening to Bush's State of the Union address. Americans are called to fight terrorism by staying sober. I feel now, more than ever, that I need a drink.

The problem with this war is the means. The ends of this war are just; stopping terrorism is right. But, it is also basic Christian dogma and a common philosophy of many other world religions that the ends do not justify the means. Our government, however, operates in violation of the spirit of the Geneva Convention, lawyering its way around the responsibilities we share with the convention.

The world is told that the people in Camp X-Ray are not "soldiers," but rather "unlawful combatants." They are not "prisoners of war," but "detainees." The government may label the condemned whatever it likes, but the rest of the world is not buying into this jabberwocky. Saudi Arabia, France and Great Britain, our allies, have nationals "detained" in Guantanamo Bay, and do not trust us with their people. Each requested their people be returned home to face trial.

Meanwhile, our government attempts to convince the American people that the detainees face tough but humane conditions because they are "the worst of the worst." Talk about a cliche rationalization for abuse. Every government planning on killing people labels its targets, "the worst of the worst." This is because no government kills people who laugh, love and are human; governments kill evildoers and stereotypes. Moreover, governments lie during times of war.

Americans should expect more from our government, if only because we want to treat other nationals as we would like to be treated and because we are more humane than al-Quaeda and the Taliban. Diplomacy and negotiations should carry the day, with war as the last resort. The Taliban was toppled. Why pick fights with Iraq, Iran and North Korea while we are hunting down Mullah Omar and Osama bin Laden?

Like a man possessed, Bush II, perhaps intoxicated by an approval rating rivaling Jesus Christ's, speaks in war tongues first, and reasons second. What is needed from our leader for the remainder of the war, is the opposite: a cowboy who asks questions first and shoots later.

Petrus is a 4L.

Celebrating 50

THE GAVEL
Cleveland-Marshall College of Law
Cleveland, Ohio 44115
gavel@law.csuohio.edu
216.687.4533 voice
216.687.6881 fax

Editor-in-Chief
Edward R. Pekarek
Managing Editor
Clare R. Taft
News Editor
Colin P. Moeller

Staff Writers
Michael Cheselka
Francis Cwiklinski
Jennifer Griveas
Manju Gutpa
Michael Hudson
Tricia Hurst
Kelly R. Johnson
Michele McKee
David Milite
Paul Petrus
Mat Rieger
Peter Roche
LeA Schemrich
Frank Scialdone
Jenny Warner
Renni Zifferblatt

Adviser Thomas Buckley
Printer Gazette Printing
http://www.law.csuohio.edu/students

The butt shops here...

An hypnotic look at quitting

By Ed Pekarek
GAVEL EDITOR

New Year's resolutions are usually empty promises, taunting jokes we play on ourselves to remind us of our flaws. We all recognize the personal habits we dislike and want to change. For me one of the top entries is smoking. Something I had banished but law school brought back into my life.

I loathe it. It's like that crazy ex that somehow always manages to pull you back in for one last seduction — again, and again and again. It feels good at first, but you know what you're doing will eventually lead to ruin. I know her all too well.

I resolved myself that before I embarked on the next leg of my professional journey that she was not coming with me. I knew once and for all that we had to break up for good. She did nothing positive for me, she wanted to see me dead, she took my money and made me stink. She didn't love me and I was sick of it. We broke up twice before for stretches well over a year each. Like so many others, I ignored all the warnings and experimented at parties, but didn't get hooked for years. I still played varsity sports in high school and part of college. But it wasn't until I quit playing college football that I really resigned myself to becoming a highly skilled smoker. In fact, I got so good, I thought about turning pro.

But, instead of being emphysema draft eligible, I wheeled out to a Holiday Inn for a supercharged start to the end. Here I am for what is advertised as three hours of new age para-psychological salvation; suggestion, aversion, conditioning and hypnotism. It was billed as something close to a roundtable of Jung, Pavlov, Skinner, Mesmer and L. Ron Hubbard. What did I have to lose? The cost of two cartons and an evening.

It was about as motley a crew as one could expect wanting to boycott Phillip & RJ. Most had nervous questions during registration. The most ironic query was a woman who had to be tipping the scales at close to 400 lbs., wondering aloud about potential weight gain. She looked like she could gain weight by watching a Subway commercial.

Everyone avoided eye contact as we carried the common shame of that crazy ex. We knew we were modern day slaves to the agri-business plantations in Winston-Salem, NC. There is a city named after smokes. Or maybe it's the other way around? I'm not really sure, but the point is the same, what's wrong with that picture?

The Wrigley family has to be pleased about the recent trend though. The collective cud was being kneaded like a shiatzu convention. Most were typical middle-class Midwesterners with loose fitting Wal-Mart wardrobes concealing well developed paunches and bulges from decades of of smoky neglect. There was an identical twin to the Willy Wonka blueberry who talked waaay too much, especially because it sounded like she had already had her larynx removed. The more I heard her babble, the more motivated I became.

Equally motivating were the catcher's mitts -- 40 and 50 somethings with entirely too much crap smeared on their faces in a transparent effort to hide the relief map twisting and turning beneath. There were men with bags under their eyes big enough to be inspected at the airport. Oh yeah, smoking is trés chic.

Our host, the Tony Robbins guiding us into our newfound healthy futures, wore a gleaming pinky ring. I think his first name was "Doctor."

It was a less than auspicious beginning to say the least. He started out convincingly enough though, rattling through the "scientific" portion of his carefully crafted pitch. 10,000,000,000,000,000 "free radicals" into the body with every butt. 3,000 chemicals. 300 poisons. Eleven EPA controlled pesticides. Tobacco manufacturers spiking nicotine levels with acid aldehydes making its addictive properties 40 times, not 40 percent, greater than in its natural state.

If tobacco didn't have its American legacy, someone trying to start a cigarette company today would need the approval of at least nine federal agencies.

Okay, it's not like I didn't know that smoking was bad for me, but now I know it's *really* bad. I know I've already quit, and he hasn't started the hypno.

He spent the next hour or so talking about dopamine, seratonin, glucose and insulin and subtly hyping vitamins along the way as the "guaranteed" way to avoid withdrawal. Niacin, Folic Acid, Chromium, L Kyacene, Vanadium, Glucosol. The "doctor" talked about the evils of non-consentual subliminal suggestions, relating the story of drive-in theaters in the 1950s splicing coke and popcorn images into films. I suppose I have respect for the smiling grifter who tells you to your face he's going to rip you off before he does it. Pure brass. Maybe it's some sort of bizarro honor code amongst the hotel charlatan set.

Finally, it's time for the mind meld. "Doctor" takes us through a progression of alpha brain waves down to beta, high and eventually low theta using a pulsation gadget and a new age soundtrack. The lights are low and I'm trying to be receptive, but the chaotic cacoughony gets in my way.

He takes us mentally over our body starting with the toes, working his way up to the head, but I keep getting sidetracked by all the funky phlegm-flingers surrounding me.

I focused on the modulation of the pulses searching for cues as to what point he might be at in his schtick. He's got it way down low now, near the edge of delta waves.

Thump! Thump! Thump!

And then he starts saying:

"By now, you are verrrrrrrrrrrrrrrrrry relaxed.

By now, you are listening verrrrrrrrrrrrrrrrrry carefully.

By now, you are repulsed by smoking.

By now, you are in control of your mind and body.

By now, you are confident that you are a non-smoker.

By now, you trust my voice and feel a deeeeeeep relaxation.

Going deeper. Deeper. Deeeeeeeper in-side your mind.

By now, you are well rested and cannot wait to begin your new life as a non-smoker."

He does this for about another 10 minutes or so and then "wakes up" the room.

The lights come on and his assistant proceeds to shill overpriced vitamins for the next hour to a rabid throng of nicotine-starved zombies who for the most part look like they've never gulped a Pebbles or a Bam-Bam in their entire lives.

Buy now, you have been royally scammed.

I got a refund.

Pekarek is a 3L.

A 1L's Perspective

By Nancy Biddell

We've attained a new status
they call it 1L
and all our friends told us:
it's gonna be hell.

We all seem to share
the same inner fear:
is this too tough?
Should I really be here?

Still, we all walk together
"en banc" to our classes,
Praying that our profs
won't make us look like asses.

There's something familiar
in this hullabaloo
we've already been through this
in junior high school.

Remember how we sat in
our assigned places
so the teachers could put a
last name to our faces.

We learned how to find books
on our library tour,
now they just have strange
names like CJS and AM JURS.

In our classes we're learning
lots of new stuff,
now to find time for homework
can really get tough.

We have no real math class
that we must attend
we will learn about damages
when we get to the end.

Our English class is now called
legal writing
that's where we will perfect our
case law citing.

For all of our classes
we have the same grief;
What in the hell
should I put in this brief?

Our Civics class goes now
by the name of Torts
we learn about social behaviors
and infractions of all sorts.
Though the rules of mens rea
still have me confused
I, for one am still glad
my application wasn't refused.

Biddell is now a 3L.

Celebrating 50

This poem first appeared in a 1999 issue of the Gavel. It is part of an ongoing series featuring Gavel articles from the past five decades to celebrate the Gavel's 50 years.

Concur? Dissent?

Do you take issue with an opinion in this edition? Do you have a special perspective that would help shed light on the subject? E-mail us - gavel@law.csuohio.edu. Submissions must be signed. We reserve the right to edit for space and clarity.

Corporatizing America misses the bottom line

By Renni Zifferblatt
STAFF WRITER

While the Enron fiasco fostered lively political debate over corporate ethics, something more sinister lives beneath the sanitized press version. The question becomes, do corporations champion liberty or frustrate it?

The legally sanctioned corporate entity artifice began as the ultimate group experiment, promising aggregate wealth with little individualized accountability. However, good will was transformed from familial/community scruples into cost-benefit balancing by a select and invisible few. In short, the founders' Golden Rule *ethos*, premised on humane ideals and a desire to break free from the psychic trauma of Old World oppression, was quickly replaced by dollar signs and liability analysis.

Today, freedom is equated with enriched bank accounts and material possessions. Gone, are the collective truisms that brought this young nation together. Tragically, cardboard multi-plex mall replicas replaced mom and pop entities, once the center of our communities. Whereas the local trading post operators bartered and extended credit to those suffering financial strife, today we have interest-plus credit cards, extinguishing faith for debt penalties.

As to the political debate, while the present bill, pending before the House, promises to address soft money election campaigns, it fails to recognize that the few desiring "public servant" positions, must collect millions, merely to win. The Abe Lincoln's of the past, derived from humble beginnings, are a distant and foreclosed possibility in today's election process, absent political connections and even more pronounced corporate purse strings.

All of this leads to the ultimate question, why do we buy into a system that is willing to sacrifice humanity for balance sheets? While our leaders proclaim us to be "freedom-loving," it seems that we are captives of growing artificial personalities that monopolize on our naivete and willful blindness. I would like to suggest that the Enron situation is not a time for blame-game rhetoric, but rather a unique opportunity to re-evaluate our notions of freedom and quality of life. Are we autonomous or subject to the mandates of a corporate master, whose ravenous appetite has eaten away at the most intimate aspects of our lives?

Zifferblatt is a 3L.