By Ed Pekarek
Gavel Editor

Leaders of the Black Law Student Association (BLSA), the Cleveland-Marshall chapter of the National Black Law Student Association (NBLSA), played a pivotal role in reversing a racially exclusionary membership policy that stood in place since the organization’s inception over three decades ago.

The NBLSA constitution prohibited the formal recognition of any member who was not of Afro-American descent. “We went to [the national convention in] Detroit with the specific intent to change the exclusionary membership policy,” said 1L Monique McCarthy, BLSA president-elect. “Racial exclusionary policies were never an issue at C-M since BLSA’s founding in 1968.”

“The NBLSA leadership had submitted to the midwest conference agenda a Constitutional amendment militating that no local member’s Constitution may ‘conflict with or supplant’ the [NBLSA] constitution,” said McCarthy. C-M delegates realized the exclusionary clause in the national constitution might place the status of their chapter in jeopardy. C-M’s BLSA membership currently includes numerous members of Latino, Asian and Caucasian descent and requires only that any prospective member pledge to further the missions of the chapter.

Strong proponents of an open membership policy included the BLSA chapters from C-M, as well as Iowa University and the University of Michigan. The nascent coalition to eliminate exclusionary policies proposed a resolution challenging the NBLSA requirement that “...membership in BLSA is limited to Black students only,” according to a BLSA internal memo obtained by the Gavel.

“Michigan had already changed the chapter name from Black Law Student Association to See BLSA, page 3

BLSA breaks ranks, makes history

Exclusionary racial policy defeated in Detroit debate

By Colin Moeller
NEWS EDITOR

Robert Rabin, the A. Calder Mackay Professor of Law at Stanford University, and one of the nation’s leading torts scholars, recently visited C-M as part of the Cleveland-Marshall Fund Visiting Scholar program.

In addition to holding a joint torts class with all 1L full-time students, Rabin delivered the 74th Cleveland-Marshall Fund Lecture, entitled “Tort Litigation as an Instrument of Social Reform: Achieving Fairness in Compensating Victims of September 11.”

Rabin discussed actions taken by Congress to create a victim compensation fund providing no-fault benefits to victims and their survivors of Sept. 11. “[Torts] is the most highly visible mechanism for assigning responsibility and providing compensation,” said Rabin. “So ordinarily we look to torts, but there was nothing ordinary about September 11.”

Rabin distinguished the Victim Compensation fund from other no-fault benefit schemes and stressed the differences between collecting under the fund and pursuing private tort action. Pointing out that the fund imposes fast track elements, no judicial review and a cap on aggregate payments, Rabin said, “The Victim Compensation fund reveals an overlay of animosity towards the tort system.”

Rabin warned that while an award under the new fund is certain for eligible victims, a damage award in a tort action is never certain. He further warned that the element of proximate cause in tort actions brought against the airlines would be a “major hurdle to surmount.”

“The end,” said Rabin, “it seems to me, recovery in tort is subject to a number of pitfalls and limitations that the fund option does not impose on victims.”

Rabin speculated about future implications of Congress’ actions in creating the fund, stating the future is uncertain as to what types of catastrophes need to occur before the government will enact similar legislation.

Rabin, holds a B.S., J.D. and a Ph.D in Political Science from Northwestern University and currently teaches at Stanford Law School.

Rabin serves as a member of the American Law Institute Advisory Committee to the Restatement of the Law, Third: Torts—General Principles.
3L mock trials prove beneficial over traditional classroom discipline

Continued from page 1 --

Kawalkiewicz (left), steers students to “straight and narrow”

Kawalkiewicz is a part of a “team teaching” program pairing instructors in various subjects with a group of students. The program, now in its second year, has proven successful in improving student learning.

...and in America. The history of the United States is full of stories of how immigration has shaped the country.

Continued from page 1 --

The third portion of the program was a series of mock trials involving fictitious crimes. 3L Mat Riegler presided over the grand jury while 3L Reni Ziffelmann gave the presentation on evidentiary rules. Students fill the other roles, including victims, witnesses, prosecutors, attorneys, defendants, bailiffs and judges. The proceedings are restricted to a closed record and rely on cooperation with crimes such as petty theft.

“Using the exact same fact-sets, with different prosecutors, defendants and defense teams, we consistently get different results...that’s the real lesson,” said Kawalkiewicz.

The Gavel

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Fond Farewell to Picker, a C-M pioneer

By Steven H. Steinglass

Thirty years ago, Jane M. Picker, joined the faculty of C-M and founded the law school’s Sex Discrimination Clinic. In so doing, she inaugurated the first law school clinic in the country devoted to upholding the rights of women charging workplace discrimination. Two years later, with monies from the Ford and Cleveland Foundations, Picker and C-M Professor Elizabeth Mosby co-founded the Women’s Law Fund (WLF), the first nonprofit organization in the country to address sex discrimination cases. In 1974, under the aegis of the Women’s Law Fund and the Clinic, Picker traveled with WLF lawyers and clinic students to Washington, D.C. where she successfully argued before the U.S. Supreme Court the right to work of a Cleveland school teacher dismissed from her job when she announced her pregnancy (LaFleur v. Cleveland Board of Education). Astoundingly, it was the first time Picker had ever argued a case in a court of law.

The depiction of a pregnant school teacher in the mural in the Student Services area celebrates this piece of C-M history.

Picker, now called the Employment Law Clinic, under the direction of Clinical faculty colleagues Kathleen Kadowitz and Gordon Beggs and Administrative Coordinator Jean Packard, expanded the clinic in the 1980s to upholding the rights of women wishing to engage, gender, country of origin, disability and other employment claims. The Clinic has notable successes in securing the rights of women wishing to enter the safety forces; in Cleveland, the first women firefighters owe their jobs, in part, to Clinic advocacy.

Picker staked the law school’s claim in the world that was opening following the collapse of the Soviet empire. In 1995, she inaugurated the law school’s Russian studies program and negotiated an alliance with the Pontifical State University to establish the Cleveland-Marshall Summer Institute for Law Students in St. Petersburg, Russia. The Institute begins its eighth year in June.

Last year Picker decided to retire. She will remain at C-M to oversee the Russian program.

3L students submit brief to High Court in opposition of Disney lobbying

Davis students submit brief to High Court in opposition of Disney lobbying
BLSA: Defeat of Racially Exclusive Membership Policy

Continued from page 1 --
Black Law Student Alliance as a demonstration of conscience in opposition to the exclusionary policies,” McCarthy said. The BLSA memo indicates that the initial membership resolution at the midwest conference was unanimously defeated.

According to McCarthy, during early plenary sessions Mar. 16, delegates from C-M, Iowa and Michigan led a coalition that proposed an agenda item to eliminate the exclusionary policy altogether, with Michigan and Iowa stating their willingness to cancel their affiliation with NBLSA.

Initial reaction to the proposal was not receptive. Those wanting to eliminate the policy were the minority. Reportedly, NBLSA founder, A.J. Cooper, openly decried the attempt to open membership policies.

“I couldn’t believe some attitudes from other schools’ delegates,” said BLSA President Sandra English, 3L. “Some said, ‘we’re the Black Law Students Association, if we let everyone in, they’ll take over.’ ”

“The prior NBLSA president was technically not an eligible member pursuant to the constitution by virtue of the fact that he was African, not African-American,” said McCarthy. “I can’t say how black students should feel about white members joining BLSA, but I’m really happy to be a part of the organization and am very grateful for all the friendships I’ve made,” said 3L Kyde Bloor, a caucasian member of BLSA.

“BLSA is an organization that advances goals and opportunities for the black law student population. I officially joined because I eventually got over being a white member.”

“Surprisingly, liberal schools like Columbia and NYU were some of the strongest supporters of maintaining a separatist policy,” English said. “Our delegates took a risk speaking out against the majority [who favored exclusionary policies] and may have been perceived as ‘sell-outs,’ presumably because schools like C-M might encounter Fourteenth Amendment problems as a state funded organization.”

“As members of BLSA, if we’re striving to promote the purpose of educating African Americans, I think we should welcome all types of members,” said 1L Angela Harrell-Norman, BLSA vice president-elect.

“Southern schools have academic environments where students take classes with paintings and sculptures of Confederate soldiers overlooking them [and] may want to have something of their own,” said McCarthy, who is of Jamaican descent, noting a University of Georgia delegate who had initially objected to eliminating the policy.

According to McCarthy, the Georgia delegate was one of many who reversed their vote as the policy was defeated 119-27, following a six hour debate.

2L Michael Hudson, who hails from South Carolina, said perpetuating views of the south that are “totally bogus [is] a hinderance to advancement, when people who never lived in the south comment on it [racial relations] — that is a setback. It’s a sticky situation because many of the schools advocating the exclusionary policies are not historically black colleges.”

“There is an abundance of southern black students at C-M who are unquestionably some of the most versatile. Whites and blacks have historically stood together to fight injustice,” said Hudson.

“Subtle racism still exists, and because of that, it is important to be with people who share similar experiences,” said 3L Eddie Sipplen who comes from a small town in Georgia.

“[T]here are still a lot of instances where whites need to understand that blacks can and do solve their own problems,” said Sipplen. “[W]hile others are well intentioned, it still perpetuates a master-slave dynamic in that we as a group need help solving our problems... which is totally untrue. What others might take for granted isn’t taken for granted by black students. I’m torn on the issue but should we bar other [members]? No.”

C-M graduates:
take two of these and call me in the morning.

Downtown’s Neighborhood Bar
216.621.0055
Free Parking
There is a cure for the summer clerk blues

By Karen Mika

Q: Is my legal career over if I don't get a clerking job after my first year?

A: Although experience is important in building a legal career, I've always believed that some law students decide too soon what they “want to be when they grow up.” Some first-year students take clerking jobs for the sake of taking a clerking job, and it isn’t always the right fit. For the student who knows he is going to be an attorney but doesn’t quite know what kind, the answer is easy. That person should find some type of summer legal job and get experience. For students falling into other categories, the answer is not so simple. Remember, there are two parties to an employment relationship—the employer and the employee. Each has different expectations, and in the best possible situations, those expectations mesh.

For the student who knows where he is going, or knows whom he knows, there may be more options. At the very least, that student should take more time to consider what is the best course of action.

There is also another category of student that is always in a dilemma—the family breadwinner who is reluctant to give up a high paying job with benefits in order to get experience. In my opinion, that person should also give careful consideration to what should be done after the first year before leaping into a major life changing decision. Summers, especially, provide the opportunity to work two jobs (for the extremely motivated), or at least to take the time to see what’s out there and what might be feasible.

Frankly, I’m of the opinion that anyone who graduates from this school should be able to find a job in the legal field, even if he never worked an outside clerking job. There are numerous opportunities for practical experience by way of the clinics, and there are also internal jobs, such as being a tutor or a research assistant. One word of caution, however. Be realistic about your expectations. If you chose not to work an outside clerking job during school, then your career in the legal field might have to start with setting up shop at the back of your house and doing family wills or preparing transfers. The bottom line is always to think before you act, always weigh your options, and always consider the likely result of your choice.

Practice Profile Q & A: Criminal defense attorney, Miles A. Camp.

Camp currently holds the positions of City Prosecutor in Norwalk, Ohio and part-time private criminal practice criminal counsel. He sat down with Gavel Reporter Jay Crook to share his thoughts.

Q: What first drew you to criminal law?

A: Camp: Trial practice has always interested me, and criminal law is where most cases come from. A criminal attorney, on either side of the bar, will generally try more cases in a year than most attorneys do in a career.

Q: Having been both a prosecutor and a private defense attorney, what elements do you think are keys to being successful in each?

A: Camp: The key to success in criminal law, be it prosecution or defense, is the same as it is in any area of the law, you have to do your homework. If your case is going to pretrial, or even worse, trial, not fully versed in the law and the facts of the case, you will be at a serious, serious disadvantage. Not to mention the fact that you’re bound to end up looking stupid. While it’s daunting to try to end up looking bad in front of a judge or your colleagues, it can be fatal in front of a jury. The key is preparation, preparation, preparation. I think a lot of people have a major misconception about the different sides of practice. A lot of people who have spent their entire careers on one side of the bar think they could never represent the other side. In fact, the truth is that it is really the same game. Changing sides is very easy. Knowing what others need to do makes you a better advocate, whether as a defense attorney or as a prosecutor.

Q: Do you think the greatest disadvantage to criminal practice?

A: Camp: I don’t know if I would call this an advantage, so much, but much grueling technicalities.

(1) Divide the load among the various members of the Bar Association. But can you imagine a tax attorney trying a criminal case? (2) Assign all the cases to one criminal attorney. But this would be a case of too many for too few. (3) A type of Legal Blue Cross has also been suggested. But you can’t handle a criminal case via a file. “Mr. Bailey’s suggestion: ‘If we can get five out of every 100 students to enter criminal law, and set up an apprentice program for them (you can’t learn to try a case in law school), then the criminal law bar can be properly staffed.’

If you like criminal law and get into it, you’ll like it intensely,” Mr. Bailey asserted. Everybody likes a winner, he continued, but much grueling tedious work is involved in criminal law. The criminal attorney must go “down to the pit and smoke out the truth,” he added.

“Criminal law is not the business of dealing with criminals,” stated Mr. Bailey. The defendants in most criminal trials are just everyday people. However, Mr. Bailey quipped, “The professional (business) criminal feels that now since the police have been spurred to investigate, they’re running the business of thieving.”

Commenting on expert witnesses, Mr. Bailey stated that they will be the bane of your existence. If they’re good, they’re hard to cross-examine. And, sometimes they cannot speak in lay language. “There is so much law that has to be changed,” said Mr. Bailey. “If the answer on the shelf doesn’t sound right, challenge it,” he added.

Mr. Bailey gave Cleveland Marshall students the same advice that he received while a student at Boston University from a professor. “Some people think that your license to practice law is a license to steal. If you work hard, you’ll make money, but don’t reach the age of 50 and have only money.”

F. Lee Bailey challenges students; Enter criminal law
Me and My Shadow

Paul Petrus

The presidency is one glass ceiling that American women have been unable to break through, but the champagne ceiling is one they have utterly imbibed. According to the New York Times, women have seen the bar and nightclub power shift in their favor: Women are the force behind the omnipresent marketing of martinis and cocktail menus, and men are following suit (dresses) with their orders. One man, an electrician, told the Times about his choice of an apple martini, “I like a little gin. It’s a chic drink, but it’s perfectly seasoned.”

Perfectly seasoned? Earth to small men who frequent the Warehouse District: Put down the chocolate martinis and pick up a pint. We’re at war. Six months ago our testo
total terrorist declared war against one-third of the planet. Now it is hardly the time to order a kiwi-flavored cocktail. Women’s ascendance to the top of barroom hierarchy could not have been quicker. Women with incorrigible taste buds wouldn’t accept straight scotch for long, and now they’re im-
posing Cremasile martini

Be a man! Put down that cosmos and pick up a Bud!

Paul Petrus

When it’s all said and done, what’s the point?

By Matthew Reiger

Throughout my career as a law student, I have had occasion to discuss the pros and cons of a legal education, with many of my peers. Somehow, at the heart of all those conversations is the one question I have yet to find an adequate answer to. That is: “What’s the point of all this?”

After three years at C-M, I have heard these words come from several of my fellow students. As graduation looms near and the state of the world gets ever more bleak, all I can do is reiterate, “Yes, what is the point?” I could go on a rampage here and share some self-righteous rhetoric about legal education, my personal views on particular issues, or the law itself. In essence, I could take this time to defend my choice to come to law school, but what would be the fun in that?

Instead, I would like to focus on a few of those things one takes from law school that are not so clearly evident.

First of all, I have learned to be a workaholic, juggle multiple tasks simultaneously and forsake anything sensible. This skill, in turn, has provided me with several opportunities to pass up ski trips, golf outings and vacations, so that I can sit around and read law review articles.

I have also learned to look at situations from a variety of perspectives, which in turn has led me to a place where I am no longer sure what my own perspective is. Additionally, my experience with taking law school exams has made it crystal clear that we are caught up in a profession where it doesn’t matter what you know, but only what they think you know.

Law school taught me all else to answer never a question with a direct answer, that all questions give rise to more questions, and in the end, there are no answers, only endless questions.

So, as I reach the end of the line here at C-M, I’m still trying to figure exactly what the point of all this is. And maybe that’s my biggest regret. So take heed, first years. If I had it all to do over again, the first time I found myself on the losing side of the Socratic method, I would have looked at that professor in the eye and said, “Sorry man, but I’m looking for people with answers, not questions.”

Reiger is a 3L.
Confessions of a Bridal Show Junkie

By Megan Fraser

Have you ever noticed that as you move closer to graduation, people comment, “So you can see the light at the end of the tunnel, huh?” I will graduate in a few weeks and the light at the end of the tunnel cannot only be seen, it’s brilliant.

I know, even after four years of not having weekends, of having gone without vacations because I’ve had to use my two-weeks to prepare for finals and of ruined eyeglasses that I would die to replace. I am surprised to find myself feeling both euphoric and saddened by the end of my law school career. I can still recall my first class and the terrified silence which permeated the room as my fellow students and I, sat nervously waiting for class to begin. I remember hearing rumors of the Socratic method and horror stories about professors requiring students to stand in class to recite case facts. I’m convinced these rumors were perpetuated by lawyers to keep prospective students out of the market.

However, before I depart this legal limbo, I wish to share with you the belief I’ve held, useful “inside” information, gained by four-year’s experience, as well as a few universal law-school truisms.

4L Enlightenment at the End of the Tunnel

By LeA Schemrich

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However, before I depart this legal limbo, I wish to share with you what I believe is useful “inside” information, gained by four-year’s experience, as well as a few universal law-school truisms.

1. Get your resume into shape, then leave it alone. No matter how many times you revise, people will make suggestions.

2. For most subjects, there is no mental monster you must conquer before being able to understand the material. Life experience has already given you the answers to most questions professors ask. If the professor asks a question and you find yourself thinking the answer is so obvious it must be wrong, you’re right.

3. Pay for bar review classes in full early in law school. The powers-that-be will never miss an opportunity to drain us for funds. This is especially true in your last year, when you find yourself socked with graduation costs and bar application fees.

4. The bar exam has two parts: essay and multiple choice. Third-year review covers both. PMBR reviews only the multiple choice. PMBR offers two types of classes, a “6-day,” and a “3-day.” Lawyers recommend PMBR and say the 3-day is all you need. It’s also substantially less expensive than the 6-day.

5. Unlike the financial aid we receive during our three or four years, the loan application for PMBR is due to live on while studying for the bar is based on credit rating.

6. Outline as you go. You can never credit as much as you need of a semester’s material in a few weeks. When you finally outline, you’ll notice it would have been more efficient to outline as the semester progressed.

7. You must fill out two bar applications prior to graduating. This is a detail, costly application which will lead to your character and fitness interview. This should be done in your second year. The second application is the supplemental bar application. It asks you the same questions you answered in your first application, only in the context of whether your answers have changed since you first filed. It cannot be completed until the semester prior to graduation. It costs around $250.00 to file.

8. The character and fitness interview is not the nightmare it’s rumored to be. Mostly, they look for red flags.

9. C.M. has a residency requirement. In order to graduate, you must have a certain number of semesters with a minimum number of credit hours per semester.

10. You must study the black letter law set out in your ethics textbook to pass the MPRE. The MPRE is not a blow-off test.

11. The school allows you to take classes on a pass/fail basis. Pass/fail means that if you get a C or above, it is recorded as a “pass.” The classes commonly used for this are Corporations and Estates and Trusts. Both are four-credit classes and both are reputed to be mind-numbing.

12. After you accumulate 53 contact hours, you can ask the Supreme Court of Ohio for a temporary “license” to practice law. This allows you to represent clients in court before you graduate. The fee is a $20 filing fee.

A Commencement Challenge: Thank the unsung heroes

By Renni Zifferblatt

As a natural consequence of one’s pending law school graduation, there is a certain amount of reflection regarding the past three years. In so doing, it seems worth identifying those forces, who have profoundly affected the lives of many students.

Of course, realities cannot be listed comprehensively by name, for their numbers would far exceed the limits of this page. However, over numerous spirituals at work among us, heroes in their own right, tend to follow the law school community to thrive. Behind the scenes exists a network of administrators dedicated to enhancing our education. They are responsible for the resources, library holdings and support staff who benefited each of us.

As to the faculty, the immeasurable accomplishment abounding in our professors is astounding. Many of us discovered when we spoke with professors, many remarkable people, willing to answer questions, and review our work.

And then there is the beloved legal writing staff, whose efforts exceed their job descriptions. They not only serve to lay the foundation for the profession, by teaching legal writing and research skills, but also leave their doors open for students seeking counsel and human contact. They nurture the heart of the law school without expectation or judgment.

In the end, I find myself regretting that I did not spend more time thanking the people who made my law school experience unforgettable. The question of how to give back loomed large until I was approached by a colleague who told me about the Graduate Challenge, a program which forges a bridge between graduates and the law school. The program serves to support C.M.’s efforts to continue to expand its programs and assist incoming students. Whether remaining in Cleveland or relocating, the program provides a means for graduates to invest in our school, as we become part of the legal community. It is a way to honor those whose dedication helped us navigate our skills and newfound autonomy. When your letters arrive in the mail shortly, take time to contemplate the influences that helped you achieve your goals and join in the campaign to benefit our school as we continue our march forward.