Moot Court teams hit with one, two punch
By Donna M. Holland and Christopher Friedenberg
STAFF WRITERS
On the heels of another successful Moot Court Night, two Cleveland-Marshall teams finished the Regional Finals of the American Bar Association’s annual National Moot Court Competition with the top-two briefs. Team Two, led by Mark Gould, Rhonda Porter and Don Herbe, won the best overall brief in the region with their “Best Respondent’s Brief.” Team One, led by Renee Davis, Michael Hunter and Danielle McGill, finished with their the number two brief in the region, “Best Petitioner’s Brief.”

Because competition rules indicate that only one team from the same school may advance to the National Competition in New York, the two C-M teams argued against each other for the chance to move on. Team Two won, and will advance to the National Finals of the Moot Court.

AFLAC cries “foul” over political squawk
By Jay Crook
STAFF WRITER
The 2002 election season has come and gone, with Gov. Bob Taft defeating Tim Hagan in a decisive contest. Yet one of the hottest issues remains — what about “Taftquack”?

“Taftquack,” a creation of the Hagan campaign, first made his appearance on a website at taftquack.com in early September. While not the homepage for the Hagan campaign, a link led web surfers to Hagan’s site. The “Taftquack” character is a cartoon composite of a duck’s body and Taft’s head, with a duck bill, that when asked questions squawked, “TAFTQUACK,” in a nasal voice. The duck’s body and voice were highly reminiscent of the popular AFLAC television spots, also featuring a duck.

A number of spots including the “Taftquack” figure were run by Hagan. Taft eventually incorporated the idea into some of his own spots, featuring a different duck.

Soon after the “Taftquack” website debuted, AFLAC filed suit in the Northern District of Ohio. AFLAC accused Hagan of federal trademark infringement, as well as trademark dilution. Judge Kathleen O’Malley, who was assigned to the case, heard oral arguments on the issue of both a temporary restraining order (TRO) and a preliminary injunction (PI). After the dust had settled, Hagan was victorious, but the fight may not be over.

The driving issue of the case revolves around the trademark dilution cause of action created by federal statute. To be successful in a trademark dilution cause of action, the plaintiff must show that the mark is famous, that the use by defendant is commercial and causes “dilution of the distinctive quality of the mark.”

In memory of 3L Frank Cwiklinski, the Gavel presents his “Veterans Day: A Full Opin

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Reviewed by Dre Biden

pf Reviewing the Bar

Bar/Bri? Rossen? PMBR?

Reviews

Law Career Fair and Conference in Washington, D.C. C-M students and faculty were on hand to network and learn from stand-outs in the field. Turn to page 4 for more.

At the law school the program, as well as the budgetary program, has been around for years.

C-M officials believe the program can bring in excellent candidates whose capacity to excel in law school are found in qualities other than high GPA and LSAT scores. The program is designed to bring in applicants whose personal qualities evince potential for success.

Programming academic success
By James Lucas
STAFF WRITER
In the admissions process, candidates vie for a limited number of seats in the nation’s law schools. Admission officials weigh undergraduate GPA and LSAT scores. However, a new program implemented by C-M emphasizes factors including the candidate’s life experiences and ability to overcome adversity.

The Academic Success Program was introduced by the Department of Student Affairs this semester for 1Ls. According to Assistant Dean for Student Affairs Gary Williams, similar programs have been around for years.

“Beginning in 1992, law schools across the country started to become interested in ‘nontraditional’ admits,” said Williams. “More was taken into account than just GPA and LSAT scores. The whole person was looked at rather than principally numbers.”

Williams noted, however, that the program is not designed to be a review session of any particular course. Rather, the program seeks to provide students with the assets needed to practice as an attorney. “The purpose is not to teach substance, but skills,” said Williams. Additional goals include student retention and an improved bar passage rate.

“The students who were invited were invited based upon GPA, LSAT and other considerations,” said Williams. Attendance has not been a problem to those extended an invitation. According to Williams, approximately 75 percent of those invited participated in the voluntary program.

The program is not offered to every first year, Williams admits. “There is a limited budget for the program and teaching assistants must be paid.” It is hoped that the program, as well as the budget, will grow.

Enthusiasm in the project is shared by Associate Dean Jack Guttenberg. “We think it can help a lot of people do better.”

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Nader weighs

Shortly after learning of Senator Paul Wellstone’s death, consumer-advocate Ralph Nader delivered the keynote address of the Equal Justice Works Public Interest Law Career Fair and Conference in Washington, D.C. C-M students and faculty were on hand to network and learn from stand-outs in the field. Turn to page 4 for more.
Bar Pass Rates Up

By Steven H. Steinblass

Results of the July 2002 Ohio Bar Exam were posted Nov. 8. With this in mind, it seems a good time to write about what C-M is doing to prepare students for the Bar.

The Bar Exam, like law school, is difficult because the profession and the public demand it be difficult. There is too much at stake for it to be otherwise, but every C-M student has the ability to succeed in law school, to pass the Bar Exam and become an accomplished attorney.

In recent years, C-M strengthened our program of legal education to make passing the Bar more likely. This included expanding the first-year Legal Writing and Research Program, introducing a third required semester of legal writing, strengthening our program of academic assistance and using more bar exam-type testing. We resisted grade inflation, urging the faculty to use the full range of grades.

There are encouraging signs that these measures are effective. For example, the 2002 graduating class had a 74 percent pass rate. Moreover, first-time pass rate on the July 2002 Bar Exam for the full-time students who entered in 1999 was 84 percent.

The most significant thing we learned is that the best predictor of success on the Bar Exam is success in law school. For the last six graduating classes, the pass rate of students graduating with at least a 3.0 GPA was 91 percent, while the rate of those with a GPA lower than 3.0 was 47 percent.

Our review of bar performance reveals that, in the last three years, part-time students have not done as well as full-time students. On the July exam, 83 percent of our full-time students passed, while only 65 percent of our part-time students passed. Because part-time and full-time students are admitted based on identical criteria, we believe the disparity is best explained by the different obligations these groups face. Nevertheless, for both part-time and full-time students, the message is the same.

Students should make preparation for the Bar the highest priority. Take a review course, take time off from work, say goodbye to friends and family and study, study, study.

If you Care About Ohio’s Future Go To

If the use of the trademark must be “commercial” in nature, what exactly is “noncommercial” speech? The battle lines were drawn with First Amendment rights on one side and intellectual property rights on the other.

If you Care About Ohio’s Future Go To

AFLAC argued strongly against the issue being ruled moot, citing the never ending string of campaigns, and the long reaching effect of the ruling on the value of its mark. Hagan countered that the issue was limited solely to the campaign at hand, and that there would be little value to Hagan of arguing the case after the election.

O’Malley ruled not only was the issue not moot, giving AFLAC a right to a full trial on the issue, but that the issue of money damages had not been addressed at all. AFLAC has not walked away empty. During the course of the arguments over the preliminary injunction, the bench raised the issue of “mootness.” AFLAC argued strongly against the issue being ruled moot, citing the never ending string of campaigns, and the long reaching effect of the ruling on the value of its mark. Hagan countered that the issue was limited solely to the campaign at hand, and that there would be little value to Hagan for it to be otherwise, but every C-M student has the ability to succeed in law school, to pass the Bar Exam and become an accomplished attorney.

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The Moot Court program is administered by its Board of Governors, 2 and 3Ls who won membership through intramural competition. Governors participate in five to six interscholastic appellate advocacy competitions annually, including the National Competition. Prof. Stephen Gard serves as National team advisor.

According to Moot Court Advisor, Prof. Karin Mika, C-M teams hold a national reputation for excellence based on their successful performances, as illustrated by numerous first place team and brief awards over the past 20 years.

Last year’s C-M team of Nancy Berardinelli ’02, 4L Denise Salerno and Peter Triska ’02 placed in the final four of the 2002 Nationals.

According to Mika, Moot Court competition is tight. Over 100 1Ls submitted writing samples last year and only 16 are invited to present oral arguments. Only half of those orals garner Moot Court membership.
Ulmer & Burne awards excellence in advocacy

2L C-M students Brendan Doyle, Siegmund Fuchs, Christos Georgalis, Bryan Kostura, Susan Parker-Taylor, Christos Georgalis, Bryan Doyle, Siegmund Fuchs, and associate member scholarship recipient Susan Parker-Taylor were awarded the 2002 Ulmer & Burne Moot Court Award. The recipients, all of whom are members of C-M’s Moot Court Board of Governors, were selected based on overall brief writing and oral advocacy skills in last spring’s 2L Moot Court competition.

“The recipient of this award is a testament to each of the students’ hard work, skills and dedication,” said Maria Citeroni, an associate with Ulmer & Burne, and manager of the award program. “The recipients receive a cash stipend as part of the recognition of their hard work, skills and dedication.”

Citeroni was one of the first 2L award recipients when she was a C-M student. “The program helps to prepare students’ for the real-life appellate courtroom experience,” said Citeroni. “There was no experience that was more valuable and gratifying that my membership on Moot Court Board of governors while I was in law school.”

2L IN NATIONAL NEWS

2L Carl Rose is featured in an article of the October 2002 issue of National Jurist, “Blindness no barrier to legal success.” Rose was to participate in “Law Day,” providing children with information about college, law school and legal careers.

On Nov. 8, 12 C-M students and Pamela Drier-Middaugh, attorney for C-M’s Law and Public Policy Program, spent the day at the Friendly Inn Community Center on the near east side. The purpose of their visit was to participate in “Law Day,” providing children with information about college, law school and legal careers.

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Bar reviews put to the test, which course is right for you?

By Amanda Paar

Staff Writer

A variety of feedback from peers and highlights to mugs and mugs, bar review course representatives are a mainstay in the C-M student lounge. These gifts are enticing, but when it comes to crunch-time, which course provides that competitive edge? Choices include Bar/Bri, Rossen and PMBR. According to their websites, both Bar/Bri and Rossen & Bar/Bri bar review courses have lectures available. Howard Rossen '84, was one of Bar/Bri's founders and upon the expiration of a non-compete clause, his son, Marc '95 established the Rossen Bar Review in early 2001. Rossen has a staff of Ohio-based faculty, including many C-M professors, while Bar/Bri has national and regional faculty.

Bar/Bri and Rossen both use DVD home study courses and offer free DVD players upon course completion. Free admission to Ohio Bar Review lectures is also provided with the Bar/Bri home study course. Rossen provides a web-based training environment for the Multistate Bar Exam (MBE) with no extra software required. Rossen lectures offer six in-class practice essays administered and graded by Ohio attorneys. Rossen also provides copies of past bar exams with sample student answers. Bar/Bri offers a six-hour simulated MBE. Simulated exams are computer graded against up to 35,000 other Bar/Bri students nationwide.

Rossen is noticeably more "Ohio specific" than Bar/Bri. The Ohio-based Rossen staff provides an Ohio essay and MBE approach to potential Multistate subjects. While Bar/Bri also provides Ohio material, it balances its state-specific section with material focused on the MBE and Multistate Performance Test. According to Marc Rossen, the Practicing Law Institute is Rossen's Multistate supplemental workbook and is offered to clients without charge.

PMBR's mission is MBE preparation. PMBR claims it is not in competition with the rival bar reviews. Rather, it refines its offerings as a supplement to those courses and does not cover the same material that Rossen and Bar/Bri respectively teach. According to its website, PMBR creates its own questions. No authentic sample questions from past bar exams are incorporated into the PMBR approach. PMBR notes that questions are never repeated, so it does not use retired questions. Despite PMBR's claim of market neutrality, it boasts of a "competitive edge." over other programs based upon the scores and pass rates of its customers. PMBR lectures are administered considerably closer to the actual exam in order to "maximize short-term retention."

PMBR claims that students who supplement their bar exam preparation with this course of study increase their final scores by up to 20 or 30 points. PMBR further claims that on a one to 10 scale, average PMBR questions are a nine or 10 in difficulty and focus on gaps in the law, such as, "mortgages, perfection of security interests in fixtures and riparian water rights," rather than a concentration on summaries of the major topical areas such as contracts and torts. PMBR also suggests that its techniques and strategies result in a successful bar exam.
SBA budget committee chair

According to my high school political science teacher, the primary job of government is to decide who gets what, how, and who gets left behind. In other words, government decides where the money goes. And as Prof. Ammons will enthusiastically remind her students, if you want to find an answer to an issue, “just follow the money.”

As the chair of SBA Budget Committee, I not only follow the money, but along with a committee, decide how much money is coming to C-M student organizations. However, the most important issue is that there isn’t enough money to go around.

When the SBA received funding applications from almost all student organizations. After receiving the proposals and those that were taken into consideration during the budget allocation meeting. During this meeting, the Committee considered several factors, including how much funding the organization receives from the law school community, how many members the organization has, how much funding the organization requests, and how quickly the decision was made, the proposed budget was submitted to SBA Senate, where it was quickly approved.

SBA has roughly $23,500 to allocate (almost $57,000 was requested). The Committee decided to reserve approximately $2,900 for new organizations, as well as a discretionary fund that SBA can use to “cosponsor” a student organization event.

In order for the organizations to actually receive their money, they were required to read and complete an application packet, which included signing a contract promising a detailed financial statement to be submitted to SBA at the end of the year. So far, most organizations have complied; but as expected, some still haven’t.

Some organizations were disappointed by the allocations, but that is what happens when there isn’t enough money to go around. However, the most important thing was to make sure that the decisions were made fairly.

In other news, SBA purchased two new microwaves for student use in the lounge. Due to electrical problems, we had to shut down the old microwave. However, we will soon place the old one (which still works) where the other broken, old one currently is. SBA is working hard to get Direct TV back into the student lounge. The receiver was stolen last summer, and once we have a new one, television programming will return (but with extra security measures, of course).

A Measure of C-M’s Success

Having read the latest installment of the “1L First Year Life” series, several thoughts came to mind. It is given that there are certain “types” of students that get on our nerves. Human beings simply are not capable of liking everyone they interact with. That luxury is reserved for big purple dinosaurs and Mr. Rogers. However, I think that it is equally uncommon to hold ill feelings toward everyone who acts differently. The Anonymous 1L seems to find fault with the actions of those who do not, like he does, sit quietly in the back of the classroom and refrain from interaction. He seems to think that the “know-it-all,” “Freedom Fighter” and comedian are foolish, and those who conform to such stereotypes are doomed to fail.

Why is it that he feels this way? I do not think it is in error. The author critiques are extricated. I think that the basis for the author’s feelings is that he desires to have the same confidence in his knowledge of the material as these stereotypical individuals. In other words, I think he might well resent the fact that they are able to voice their thoughts with such ease, while he hides in the back of the classroom. The only way that he can reconcile his sense of self-worth in the face of his fears is to assert, quite arrogantly, that his actions are those of the truly successful law student, and that he is the “person we need to fear the most.” I think the self-justification of such a statement is truly obvious.

I believe that if the author thought about why he behaves the way he does, sitting quietly in the back of class, he would find that it is his way of dealing with a new and unsettling environment. Furthermore, I think that the behavior of those he identifies in the article is also a sort of defense mechanism. The “know-it-all” might feel as if he must voice his opinions to make herself feel she knows what is going on in class. The comedian uses his quips to make himself feel comfortable. We are in this together, and I think we are all experiencing at least a little bit of fear and uncertainty that we deal with in our own way. It seems hypocritical for the author to condemn the methods of others while applauding his own.

In the end, I think that the people who will succeed in law school are those who work hard and sacrifice. I hope the author of the article chooses to study during reading week rather than rely on his silent demon to pull him through finals.

Incidentally, I too am the sort of person who generally sits in the back of the room and stays out of the conversation, though I have chimed in a time or two. I do not attribute my silence with genius, however, but rather to the fact that when I hear the term “consideration,” I instantly go into a coma-like slumber. Speaking of which, it is time to catch up on some sleep. Now, where did I put my contracts book.

Christian Bates

SBA boosts budgets

By Brian Stano

SBA Budget Committee Chair

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Christian Bates

On Nov. 10, Cleveland-Marshall closed its doors to commemorate Veterans Day. The name of the holiday seems self-explanatory, but how many of us really know what the celebration entails? I admit, even after several years on active duty, my knowledge was sparse. My own research led me to these discoveries.

The first Veterans Day was actually Armistice Day. It was created by President Woodrow Wilson Nov. 11, 1919, to commemorate the one-year anniversary of the end of World War I. Armistice Day, however, did not receive official recognition by Congress until 1926 and did not become a national holiday until 1938. Had the Great War turned out to be the “war to end all wars,” the holiday would have probably retained its original name. History, of course, proved otherwise. After World War II and Korea, President Eisenhower signed a bill proclaiming Nov. 11 as Veterans Day, to honor all Americans who have served in times of war.

In 1968 Congress passed the Uniform Holiday Bill, placing Veterans Day on the fourth Monday of October. The intent was to provide Americans with four national holidays on Monday. Congress believed that these long weekends would encourage travel, recreation and cultural activities and stimulate greater industrial and commercial production. Personally, I find the Congress’s decision rather misplaced, as many young Americans were fighting in Vietnam, guarding the DMZ, patrolling the Iron Curtain and protecting for peace on the home front.

In 1978, Veteran’s Day returned to its original date. Nov. 11 has more of a historic significance than the end of World War I. The Great War ended on the 11th hour of the 11th day of the 11th month. The Tomb of the Unknown Soldier was dedicated in 1921 at that exact time at Arlington National Cemetery. France and England held similar ceremonies at the Arc de Triomphe and Westminster Abbey, respectively. These ceremonies continue today. At Arlington, the presidential wreath is placed in front of the tomb as a tribute to more than one million soldiers who lost their lives since our Declaration of Independence.

This past Veterans Day had particular significance to the 16.5 million Americans who served in World War II. Near the Rainbow Pool on the National Mall in Washington, D.C., 12,000 people attended groundbreaking ceremony for the National World War I Memorial. The speakers included President Clinton, World War II veteran Bob Dole and Tom Hanks, who has dedicated countless hours to fund-raising efforts after his involvement in the movie “Saving Private Ryan.”

“Democracy is never a final achievement. It is a call to unending effort, to continuous sacrifice and to the willingness, if necessary, to die in its defense,” President Kennedy once said. “The story of America has been written, in large part, by the deeds of our veterans—deeds that bind us to our past, inspire us in the present and strengthen us to meet the challenges of the future.”

When I speak to World War II veterans, I am in awe of the sacrifices they made. Many of these young Americans went overseas for years, knowing they would not return until the job was done. It is unfathomable how different the world would be today if D-Day had failed, or if there were a negotiated peace with Hitler. Because of our veterans, democracy has never endured such a challenge.

Outlining panic and exam-phobia grip pre-exam 1Ls

The following is the third in a six-part series following a first year C-M student from orientation to spring exams.

We are approaching judgment day. Finals are almost here.

I have mixed emotions about finals. In general, I feel unsure about what to do, and that only leads to anxiety. And the preparation for studying for finals is something that I am not looking forward to at all. But, in some twisted way, I am looking forward to taking exams.

While most of my professors have been quick to dispel any guidance as to what to expect, I still find myself wondering what the finals professors will be like. Some people tell me finals period is the most stressful times anyone will encounter, while other people tell me that it really is not that bad.

I think the most difficult and stressful part about finals is the preparation period. I currently find myself playing catch-up. During the past couple months, I have been prepared for class, but I feel a little (OK, a lot) behind on outlining. Now, my goal is to get all my outlines done at least before reading period.

I try to justify this procrastination by telling myself that doing the outlines late in the semester will reduce the time necessary to actually study during the weeks proceeding each final. My hope is that because the information will be fresh in my mind, once I begin studying, I will not have to do quite as much. While I may be kidding myself, I plan on studying seven hours a day for reading period.

However, I am finding that outlining is not an easy process. The main problem I am having is effectively organizing the outlines. Further, this is the uncertainty that I have encountered when talking to different 1Ls about their outlines. It seems like for every person I speak to, I hear a different view as to “the right way” to outline. Most students tell me their outlines are 40 pages each, while mine are in the 15-page range. Am I doing something wrong? While it seems as if I have all the concepts included in each outline, I am trying to find out what I am missing.

While the preparation is, and will continue to be, less than enjoyable, I look forward to the actual test-taking. When I start reading each exam, and panic sets in, I know I will question my decision to attend law school. Hopefully, the initial feeling of hopelessness will fade, and I will do my best. That is my goal. If I miss a concept that I did not study, I will not be upset. But, if my nerves get to me, and I forget to write about concepts I know, I will be disappointed.

Once the two weeks are over, and finals are complete, it will be time to enjoy the time off and relax. However, these weeks will remain stressful, as we wait to receive our grades. These grades will tell us a lot. Is law school right for me? Did I do as well as I possibly could? Should I do something different to prepare for the spring exams? If I do badly on exams, there are many steps I can take to prepare next semester. Hopefully, I will not have to change a thing.

Dems jump ship in GOP-aligned Ohio

By Grant Monachino

The Plain Dealer recently reported Ohio public education as being one of the most expensive tickets in the nation. Even though these shortcomings are part and parcel to the Taft-era, the Ohio Democratic Party’s challenger was a campaign fund deficient Tim Hagan. How did Taft get away with the high cost of education and the regressing economy?

With so many CSU students outraged by the possibility of a tuition increase for the U-Pass, you would think the younger demographic would voice their disapproval of high education costs through their vote. A recent CSU Student Government Association sponsored voter registration drive, however, resulted in fewer than 100 registrations, not the projected figure in the low thousands. Although this does not indicate the attitude of younger voters throughout Ohio, it may explain why one of Taft’s major campaign platforms offered no choice for prescription drugs.

Older people vote. All this said, I am not a proponent for either party, but November’s elections warrant notice that history was corporately nationwide, and “Taftquick” was all the Democrats could muster in Ohio.

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