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THE GAVEL

VOLUME 72, ISSUE 3

THE STUDENT NEWSPAPER AT CLEVELAND STATE UNIVERSITY COLLEGE OF LAW

December 2023

CSU|Law Mock Trial Team Competes At Case Classic

**Lina Girgis and
Megan Porter**
Team Co-Captains

On the weekend of November 10, 2023, the CSU College of Law’s Mock Trial Team competed in the Case Classic Competition, led by coaches Julian Emerson, Jed Chedid and Patrick Fox. This year’s team consisted of all brand new members who managed to shine bright amongst all other competing teams, including teams from Harvard, Alabama and Virginia.

Team Silver A

Team Silver A consisted of Team Captain Lina Girgis, Koby Adu-Poku, Marshall Farber and Parker Coddington.

Marshall Farber and Parker Coddington represented the prosecution pair of Team Silver A and secured one win. Farber was ranked as the best performer during the second round and received a perfect score on his opening statement. Farber also made several successful objections to protect his witness while she testified on the stand, a skill he spent a significant amount of time perfecting. Coddington’s strong and confident demeanor allowed him to successfully and clearly relay his message to the jury. His exceptional closing argument secured this pair’s win during the second round.

Lina Girgis and Koby Adu-Poku represented the defense pair of Team Silver A, and secured one win, receiving a score of at least 90/100 for both rounds. Girgis successfully impeached her first witness and scored a near perfect on her opening statement in



CSU|Law’s Mock Trial Team Members

the second round. Adu-Poku was ranked as the best performer by three out of the five judges he performed in front of and received a perfect score on all four of his parts by the presiding judge during the second round.

Team Silver B

Team Silver B consisted of Team Captain Megan Porter, Zach MacMillan, Abby McCoy and Jake Wrege. They advanced to the Top Ten on the second day of competition, narrowly missing the Final Four by less than 15 points.

Megan Porter and Zach MacMillan represented the prosecution pair of Team Silver B, and secured one tie. The two other teams they faced in the preliminaries also placed in the Top Ten, and both teammates fought hard for every point possible. Throughout the competition, MacMillan fielded every single objection he faced and consistently scored the

highest for his Cross Examination. Porter received outstanding praise for her Opening Statement and was an asset to her team as both a Witness and an Advocate. Both MacMillan and Porter were ranked twice as the Best Litigant for their rounds.

Abby McCoy and Jake Wrege represented the de-

fense pair of Team Silver B, and secured two wins, going undefeated for their competition debut. Both McCoy and Wrege responded quickly to last-minute changes and were able to think quickly on their feet. Wrege expertly wove in his rebuttals to opposing counsel in his Cross Examination

and Closing Argument in a way that the team had never seen before. McCoy not only played a star witness, but also was an expert in raising all possible objections.

All eight members put in multiple hours each week perfecting their parts and performance. Team Captain Megan Porter was a powerful leader throughout the semester and during the weekend of competition, always willing to sacrifice her time to ensure her other teammates excelled. Team Captain Lina Girgis spent time with individual teammates to help prepare them for all possible scenarios at the competition and helped maintain team organization in an effective manner from the start of the semester.

Both captains wish to communicate how proud they are of their teammates, and how each and every one of them absolutely dominated the courtroom during their first competition. The team is eagerly looking forward to the AAJ competition this Spring.

SBA Hosts Listening Session On Paid Externships

Philipp Corfman
SBA Academic
Committee Chair

On Thursday, November 9th, the CSU|Law Student Bar Association hosted a listening session bringing together students and faculty for a powerful discussion about how CSU|Law’s ban on paid externships has affected the student body.

Close to 40 students attended, both in-person and on zoom—which, given that

the event was in the middle of exam studying season, we count as a success. Much to their credit, a majority of the Faculty Curriculum Committee (which will ultimately vote on the issue) was also present and ready to listen.

The moderators of the event (SBA President Jalela Jallaq and I) began the meeting by sharing the results of the poll that was conducted back in September. Out of 169 total responses, this was the result:

- Question 1:**
Should CSU|Law Lift the Ban on Paid Externships?

Yes: 162 (95.9%)
No: 7 (4.1%)
- Question 2:**
If you have or plan on participating in an externship, how would the added income impact your financial situation during that time?

Significant positive impact: 144 (85.2%)
Some impact: 17 (10.1%)
I wouldn’t even notice: 8 (4.7%)

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EXTERNSHIPS

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Question 3:
If your externship were paid, how might you spend the additional wages?

Housing & Utility bills: 94 (56%)

Academic needs: 27 (16%)

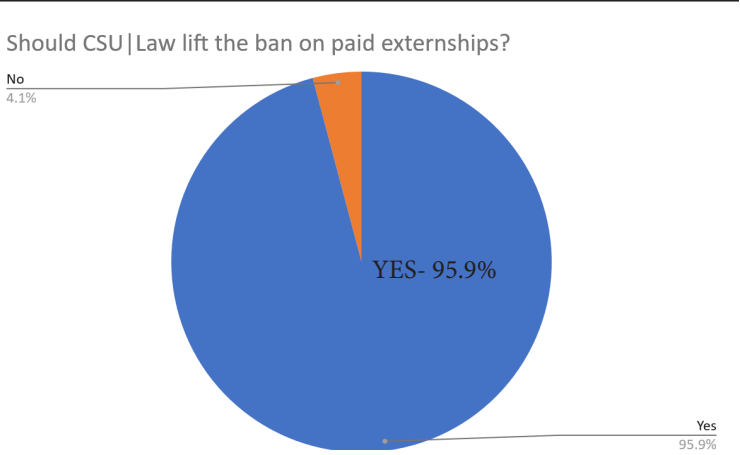
Personal needs: 24 (14%)

All of the above: 18 (11%)

Other: 6 (3%)

After sharing the poll results, we opened the floor to students to share their thoughts. Working for free for several semesters is not a luxury everyone can afford. Economic pressures have only become more serious since the issue was last discussed in 2019, between the lingering effects of the pandemic, inflation, and the housing crisis. Students opened up about how they have struggled to afford rent, clothes, casebooks, and other basic necessities during law school. This has had a serious effect on their mental wellbeing, financial security, and academic performance. One student added that an emergency loan was the only thing that kept her off the street when she started law school. Students pointed out that this issue disproportionately affects marginalized students—especially students of color, poor and working class students, and parenting students, many of whom not only financially support themselves but their families as well. As one student put it, “we are adults. To overlook the fact that adults need money to survive is ridiculous to me.” Wellness was also a major topic of discussion. Students

noted that, while they are glad that CSU|Law has given more focus to student wellness, it is hard to improve your mental health when you are working extra jobs and losing sleep worrying about how you will pay rent. They talked about how working for free, often right alongside students from other schools who are getting paid for the same work, makes them feel like they are valued less than students from other schools. Students outlined many of the indirect effects that the ban has. Many students have had to apply for jobs outside their preferred field, while an externship is offered in that preferred field, because they cannot afford to work for free. Students related the issue to CSU|Law’s declining bar passage rates, pointing out that the financial hardship of having to work for free during difficult economic times may be a factor in this decline. Students made it clear that they greatly value the experiential learning program, and that they know that the school is doing its best to prepare us to become successful lawyers. They generally rejected the idea that the school “doesn’t care” about them. Not everyone supported lifting the ban. One student argued that we knew or should have known that CSU|Law didn’t allow paid externships when we enrolled and could have gone to a different school, and that it would be unfair to students who have had to work for free to change the rule now. Most students, however,



argued that for CSU|Law to live up to its commitment to accessibility, justice, and academic success, it is time to lift the ban on paid externships. Students also got the chance to respond to questions from members of the faculty. Curriculum Committee member Prof. Moncrieff, who added that she plans to vote in favor of lifting the ban on paid externships, raised a concern that students will only apply to externships that are paid and ignore those that will always be unpaid (including judicial clerkships). Dean CBJ also expressed a similar concern that allowing paid externships will lead to the externship application process resembling OCI season, where students are pitted against each other in competition for more desirable paid externships, with disproportionate advantages going to the top 10% of students. Students responded that, while money is an important factor in applying for externships, it is not the only factor. If they can afford to, they will continue to apply to unpaid externships that will be fulfilling and benefit their career. All students are asking is that they have the freedom to weigh what is most important to them in their individual circumstances. Here are the next steps: SBA is working on scheduling a meeting with faculty who teach and supervise the externship program to hear their thoughts and concerns. SBA Academic Committee will then draft a proposal to submit to the Curriculum Committee. This proposal will reflect months of research, data-gathering, and discussions among students and faculty. SBA is planning on finalizing, voting on, and submitting this proposal early next semester. We are planning, though we have not solidified these plans, to hold at least one more listening session after the proposal has been released. SBA is committed to carrying on this effort as transparently as possible. To see all of our research, data, and work so far, and to submit your own thoughts, check out linktr.ee/csulaw_paidexternships. You can also reach out to me directly at p.corfman@cmlaw.csuohio.edu. We greatly appreciate everyone, students and faculty, who came to the listening session. It was a powerful discussion, and I believe it has helped to move this issue forward.

Unveiling Allegations: Meta’s Lawsuit and Accusations of Deliberate Harm to Children on Social Media

Allison K. Younger
Gavel Contributor

On October 24th, 2023, 41 states and Washington D.C. sued Meta, the parent company of Facebook and Instagram, alleging that the company causes physical and emotional harm to children. There are 33 states in federal court in California with nine attorneys general filing suits in their respective states. Early in November US District Judge Yvonne Gonzalez Rogers rejected Meta’s motion to

dismiss, allowing the lawsuit to proceed in federal court. The lawsuit focuses on Instagram and Facebook, claiming that they “profoundly alter the psychological and social realities of young Americans.” As stated in the complaint: “Meta has harnessed powerful and unprecedented technologies to entice, engage, and ultimately ensnare youth and teens. Its motive is profit and in seeking to maximize its financial gains, Meta has repeatedly misled the public about the substantial dangers of its social media platforms. It has concealed ways in which these platforms exploit and manipulate its most vulnerable consumers: teenagers and children.” Meta’s own research showed that Instagram was harming teen girls back in 2021, with 13.5% of teen girls saying Instagram made suicidal thoughts worse and 17% reporting thoughts of eating disorders. According to a study conducted by The National Addiction & HIV Date Archive Program published in 2022, “Children and adolescents who spend more than three hours a day on social media face double the risk of mental health problems including experiencing symptoms of depression and anxiety, with a recent study showing that teenagers spend an average of three and a half hours a day on social media. According to a statement from the U.S. Surgeon General, “Scientific evidence suggests that harmful content exposure as well as excessive and problematic social media use are primary areas for concern.” If you have ever scrolled through your Instagram feed you have seen perfectly curated, highly edited, seemingly unrealistic images of people and places. With a rise of “social media influencers” there are countless such images being posted every single day. These influencers portray an idyllic life full of the highest of privileges. While their job is to make these things seem attainable and attractive, to a young impressionable mind it can lead to thoughts of “will I ever look like that?” and “will I ever make enough money to buy that?” According to the American Psychological Association

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Student Organization Spotlight: Black Law Student Association (BLSA)

Miriam Kobella
Gavel Contributor

Law school can be a very lonely path. It can take many weeks or months to find “our people.” It is hard to describe with words the particular feelings of loneliness that a minority student experiences during the first semester. We not only face the fears that everyone else faces, but we also have to navigate the different characteristics that make us unique. Such differences can be related to our national origin, race, preferences, gender, mental illnesses, religion and beliefs, etc. That feeling of loneliness can make anyone question their decision to attend law school.

As an immigrant Latina woman and LL.M student, the first semester of law school was like a huge, terrifying monster. I remember talking to a very wise professor, Karin Mika, about the challenges and the emotional rollercoaster that I was going through during the first months of classes. I was having a hard time finding my place. She told me that everything was going to be okay once I found “my people.”

I gave a lot of thought to what Professor Mika said. The LL.M students are close

to each other, but I still felt lost. We are a small number compared to the whole student population, so it is difficult to get rid of the lonely feeling despite being close. One day, while attending a diversity and inclusion courageous conversation at the Learning Commons with some of my LL.M classmates, we met some members of the Black Law Student Association (BLSA). The way they bravely spoke up about many Diversity, Equity, and Inclusion (DEI) issues opened the door for us to speak up, too. I had been in that area of the school many times before, but this time the “vibe” was different. Instead of fear, we saw vulnerability, hope, courage, and understanding. At the end of the event, the members of BLSA came to us to offer support and companionship and invited us to the student organization room. The org room felt like being transported to another world. BLSA members (and other students from other organizations and other minorities) were very welcoming. Every time I met a BLSA member they felt like family. They were loud just like me. They laughed so hard just like me. They danced and clapped when they felt happy. We even sang together. They al-



Members of BLSA

ways had food and snacks to share. That feeling of familiarity, belonging, and acceptance only grew with time. BLSA helped me emotionally because I did not feel lost anymore. BLSA helped me academically because many BLSA members offered their help and time to study with me before finals. They also helped me grow and see from a different perspective the beauty and responsibility that comes with being a minority. I was not raised in the USA; in my home country

race issues are seen different than in the USA. Many people are not willing to openly address those issues. However, I was able to ask BLSA members many questions about race and inclusion without being judged. As I approach my last day as a law student, I am finally able to understand what “my people” means. BLSA, I wanted to write this to acknowledge your work towards diversity and inclusion. I admire you for being a strong and united front. Be

proud of everything you have achieved as a community, as many of us are proud of you. Thank you for the support you gave me (and many other LL.M students) during my time at CSU College of Law. Your kindness and openness to “different” goes beyond the Black community, it is reaching other minorities as well. Your work is impacting the law school experiences of many students. You are truly changing the legal community. I will be always rooting for you.

2023 Election Results: Ohio Passes Issues One and Two

Alexandra Nardo
Gavel Contributor

On November 7, 2023, Ohio voters showed up and showed out, proving that Ohio is still in fact a swing state. Both Issue 1 and Issue 2 passed with a larger than expected margin, with 56.6% voting Yes on Issue 1 and 57.0% voting Yes on Issue 2.¹ Despite their successful passage, these issues are still on the table for many Republican lawmakers, who are already looking to challenge Ohio’s newest laws in any way they can. Currently in Columbus, there’s a movement from the right-wing to strip juris-

diction from Ohio courts in being able to hear cases related to Issue 1. Republican representatives released the following statement on November 9th (posted on the Ohiohouse.gov website): “To prevent mischief by pro-abortion courts with Issue 1, Ohio legislators will consider removing jurisdiction from the judiciary over this ambiguous ballot initiative. The Ohio legislature alone will consider what, if any, modifications to make to existing laws based on public hearings and input from legal experts on both sides.” Representative Jennifer Gross (R-West Chester) stated: “Foreign billion-

aires don’t get to make Ohio laws...This is foreign election interference, and it will not stand.” There is no evidence of foreign donations in the campaign for Issue 1. When asked if he agreed with the statement posted on the House website, House Speaker, Jason Stephens (R-Kitts Hill), a spokesperson said, “We’re not commenting on this at this time.”² Issue 2, only being a citizen initiative, is more vulnerable to alteration by the legislature. Governor Daddy DeWine, who was a vocal critic of Issue 2 leading up to Election Day, has already recommended alterations to the law; “My recommenda-

tion to the General Assembly is that they take action to make sure that both rights are protected...People have a right to smoke it. People have a right to consume it. But also that everybody else’s who doesn’t choose to do so is also protected with their rights as well.”³ Although Issue 2 legalized marijuana for recreational use, criminal penalties will still be enforced, such as minor misdemeanors for use of cannabis in public areas, criminal sanctions for those under the age of 21 attempting to purchase, and of course, those who choose to ride a bike or operate a motor vehicle could be hit with an “OMVI.”⁴

The future of these two laws is still in the air as the courts and legislature have their way with interpreta-

tion. However, this is an incredible shift in the political landscape of Ohio voting.

¹ WOSU News Staff, *Ohio Election Results: Issue 1 And Issue 2*, WOSU NPR (Nov. 7, 2023), <https://news.wosu.org/politics-government/2023-11-07/ohio-election-results-issue-1-and-issue-2>.
² Karen Hasler, *Ohio House GOP says it will consider “removing jurisdiction from the judiciary” on Issue 1 laws*, Ideastream Public Media (Nov. 13, 2023), <https://www.ideastream.org/2023-11-13/ohio-house-gop-says-it-will-consider-removing-jurisdiction-from-the-judiciary-on-issue-1-laws>.
³ Megan Henry, *Gov. DeWine calls on legislators to modify recreational marijuana law before it goes into effect*, Ohio Capital Journal (Nov. 10, 2023), <https://ohiocapitaljournal.com/2023/11/10/gov-dewine-calls-on-legislators-to-modify-to-recreational-marijuana-law-before-it-goes-into-effect/>.
⁴ Christopher Begin and Daniel Zinsmaster, *Ohio Votes for the Decriminalization of Marijuana*, JDSupra (Nov. 9, 2023), <https://www.jdsupra.com/legalnews/ohio-votes-for-the-decriminalization-of-8033517/>.

Chief Justice and May it Please the Court ... The CSU|Law Moot Court Team

Jacob Bourquin
Gavel Contributor

After an incredibly hectic past few weeks, the CSU|Law Moot Court Team’s 2023 season has officially come to a close. This lull in the action provides us with the perfect opportunity to reflect on where the team has been and to get excited for what the spring competition season has in store.

**Fall 2023
Competition Season**

This fall semester, the Moot Court Team had two teams compete in different competitions. The first team, comprised of 3L competitors Luke Davis, Cameron Robatin, and Rachel Wilson, and alumni coaches Amanda Schenley and Nicholas Mitchell, competed in the Appellate Lawyer Association’s Donald C. Hudson Memorial Moot Court Competition. This prestigious competition is hosted at the DePaul University College of Law in Chicago, Illinois. There, the team was forced to handle an incredibly complex problem and a series of head-scratching judge questions during oral arguments. Despite these challenges, the team displayed exceptional poise and skill. The team ultimately came up just shy of advancing further into the competition, but they received an abundance of positive feedback and have every reason to be proud of their accomplishments.

The second team that participated in the fall competition was comprised of 3L competitors Mickey Isakoff, Michael Maloof, and Ernie Oleksy. This team was also coached by two of our law school’s alumni, Brittany Mallow and Kelly Humphrey. Our team competed in Region VI rounds of the New York City Bar Association’s 74th Annual National Moot Court Competition, which was hosted by our Moot Court Team, in conjunction with the New York City Bar Association and the National College of Trial

Lawyers and held right here at CSU|Law over Veteran’s Day Weekend. The competition went off without a hitch, thanks in large part to the numerous alumni that volunteered their time and efforts over the holiday weekend.

The Region VI rounds of the National Competition are highly competitive with teams from Case Western, Akron, Ohio State, Dayton, Cincinnati, South Dakota, and Minnesota all participating this year. Our team had a fantastic showing, earning the fifth highest brief score in the competition, but just narrowly missed advancing to the semifinals. The dramatic final round was decided by only three one hundredths of a point, the closest margin between two teams of the entire tournament. In the end, one team from Ohio State and one team from Minnesota came out on top and earned the opportunity to advance out of Region VI and to the national round in New York City early next year.

The Moot Court Team is incredibly proud of the two 3L teams that competed this semester. Now, with fall competitions all wrapped up, the Team’s attention has shifted to preparing its new member class, as well as the two remaining 3L teams that did not compete in the fall, for the various competitions that they will be participating in during the spring.

**Spring 2024
Competition Season**

The spring semester will bring with it the opportunity for the six remaining competition teams to participate in various competitions with hopes of continuing positive trajectory within the national rankings for the second straight year. The Moot Court Team will be sending two competition teams, one 3L team and one new member team, to the American Bar Association’s National Appellate Advocacy Competition in February. These teams are comprised of 3Ls Dana Bye, David Giddens, and Noah Mumbach as well as 2Ls Matthew Hosler and



CSU|Law’s Moot Court Team Members

Deedra Thompson. This is the largest moot court competition in the US, and we are looking forward to seeing how our teams match up against other mooters from all across the country.

In addition to the ABA competition, the Moot Court Team will be sending a competition team to the 36th Annual Domenick L. Gabrielli National Family Law Moot Court Competition hosted by Albany Law School in Albany, New York this upcoming March. The team that will be competing in this tournament is comprised of 2Ls Matthew Corrigan, Dennis Robinson, and Susannah Schroeder. Another 2L team comprised of William Olmstead, Cecilia Payne, and Isaiah Smith will be traveling to Columbus, Ohio to participate in the 19th Annual National Moot Court Competition in Child Welfare & Adoption Law also in March. This is also highly competitive; last year, a team comprised of current 3Ls Dana Bye and Noah Mumbach, and recent alumnus Gabrielle Hartstein, brought home numerous awards. The final 2L team comprised of Carter Chippi, Matthew Holstein, and Michael O’Neil will be traveling to Buffalo, New York to participate in the Wechsler Criminal Law Moot Court Competition, which is the premier appellate criminal

law moot court competition in the United States. Last, but not least, a 3L team comprised of Jacob Bourquin and Julie Grace will bring the spring competition season to a close with their participation in the Jerome Prince Memorial Evidence Competition hosted in Brooklyn, New York in early April.

Aside from these upcoming competitions, the Moot Court Team will also be hosting its Annual Moot Court Night sometime in February. Moot Court Night is the send-off, or final practice before departing for competition, for the two teams that will be participating in the ABA’s National Appellate Advocacy Competition. The official date of Moot Court Night is yet to be decided because the date and location of the ABA’s competition also has yet to be decided. Moot Court Night will be held at the law school and is open to the public. The Team intends to invite actual appellate-level judges to preside over the argument. The Team also intends to invite the CSU|Law alumni community, in addition to current student body, to come and see these two teams showcase their skills. The Moot Court Team strongly encourages anyone considering trying out for the Team at the end of the semester to attend and see what Moot Court is about. The Team also eager-

ly welcomes anyone who is interested in simply observing a moot appellate oral argument or who is interested in supporting these students. On top of Moot Court Night, send-off practices will be held for every team prior to their departure for their respective competitions. These send-offs will be advertised in the days leading up to them on the televisions located around the school and are open to anyone interested in attending.

The Team’s year will draw to a close, as it always does, with tryouts for the 2024-2025 academic year. More information will be provided on the tryout process as we proceed into the spring semester, but those interested can expect them to be held in April, a few weeks prior to final exams. The Moot Court Team also wants to thank the CSU|Law Administration and the student body for their continued and unwavering support of the Team and its members. The Team and its members eagerly await the opportunity to represent the CSU|Law Community at its upcoming competitions.

If you have any questions about the Moot Court Team or moot court generally, please reach out to the Team’s Chairperson, Jacob Bourquin (b.jacob@cmlaw.csuohio.edu).

Exploring The Complexities Of Mental Health and Law: A Series Part II

Noah T. Seabrook
Gavel Contributor

On Friday, October 13th, the CSU community was introduced to the complexities of mental health and law regarding teletherapy. Part I of this series explained that “[i]n today’s digitally connected world, teletherapy has emerged as a critical component of the healthcare delivery system. The COVID-19 pandemic demonstrated that teletherapy is not merely an option but a necessity which required immediate implementation. However, the digital landscape comes with challenges, such as the flood of online behavioral health providers and the ethical implications of

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in 2023, teens and young adults who reduced their social media use by 50% for just a few weeks saw a significant improvement in how they felt about both their weight and their overall appearance compared with peers who maintained consistent levels of use. Meta is being accused of knowingly using features to hook children. The algorithms are used to push children towards harmful content with features like the infinite scroll and push notifications. In addition, they collect data from children without the consent of parents, which, if proven, means they are violating a federal children’s online privacy law. Meta wishes that, instead of being sued, the government approached it to make changes. However, the plaintiffs disagree, believing that the lawsuit was the only way to push forward. Social media is a place where filters, effects, face-tuning, editing, body changing, and now even AI images are created and circulated for all to see. The mental health crisis our youth are facing should worry us. With platforms like Meta working to create more engaging and addicting platforms, the youth must be protected. Social media remains at the fingertips of our youth, creating constant access to the dangers of the platforms. This lawsuit is a step in the right direction to protect our children and chip away at the depravity of social media.

crossing state lines with licenses. The Criminal Justice Center at CSU Law has partnered with the Department of Counseling, Administration, Supervision, and Adult Learning (“CASAL”) under CSU Levin College of Public Affairs and Education to provide a space for practitioners in the legal and mental health spaces to discuss this timely topic.” The seminar ran for 3 hours with the foundational information and keynote delivered by our very own Dr. Laura Hoffman, Assistant Professor of Law and Co-Director of the Center for Health Law and Policy at CSU Law. During the conference, attendees were presented with a base understanding of teletherapy. Interestingly, there is no single definition of teletherapy across federal and state policy, regulation, or law. Similarly, there is no single term or phrase that is used to sum up any definition, meaning teletherapy, telehealth, telebehavioral health, and telemental health are just a few examples of interchangeable terms all relating to the same idea(s). The Center for Connected Health Policy explains that “telehealth is a broad term that encompasses a variety of telecommunications technologies and tactics to provide health services from a distance.” It isn’t a singularly, specific clinical service, instead it encompasses a variety of pathways to enhancing care. Despite interchangeability, telehealth and telemedicine can have distinctive meanings. Telemedicine focuses on clinical delivery of healthcare – think medical diagnosis and treatment. Telehealth, on the other hand, is expansive and includes services provided beyond a physician like nurses, social workers, and pharmacists. Regardless, both realms assist the patient with health education, social support, and troubleshooting health issues. Yet, there isn’t a federal regulation governing telehealth. Instead, each state can choose to be as restrictive or expansive as the state’s definition permits. All fifty states, DC, Puerto Rico, and the Virgin Islands have their own working definition. These definitions explore what terms like “live” and “interactive” mean and whether to include audio-only forms of telehealth. These decisions became critical

during the pandemic which created unprecedented mental health challenges. The Department of Health and Human Services commented that despite these challenges, the pandemic required growth and advancement of American health care services like telehealth which ultimately led to greater access to those in rural and underserved communities. These teletherapies were expanded to include not only one-on-one therapy, but alternative forms of group therapy, text therapy, substance abuse counseling, mental health screening and even medication monitoring. Research shows that even though the pandemic has subsided, telehealth isn’t going anywhere. The data shows that individuals continue to seek out telehealth opportunities even though they are returning to in-person formats in other areas of their lives. Even commercial insurance companies and Medicare Supplemental insurance includes telehealth visits. Current research is also showing a difference in “general” telehealth and “behavioral” telehealth. General telehealth inclusive of primary care visits is currently declining, yet behavioral telehealth inclusive of mental health care is on the rise. Dr. Hoffman cites convenience, flexibility, comfortability of the patient, and reduction of costs (transportation for the patient; infrastructure for the provider) as potential reasons for the increase in behavioral telehealth. Dr. Hoffman’s keynote also explored the concept of the Digital Divide which speaks to the disparities created between rural communities and access to the internet. Specifically, the Digital Divide focuses on individuals lacking access to technology, a lack of digital literacy, and the unreliability of internet coverage, each creating a struggle in pursuing the telehealth platforms available. The Divide is often a result of either personal or socio-

cultural barriers like low income, low health literacy, disability, limited English proficiency, or limited technological skills. Structural barriers such as geographic location/isolation and internet capacity also often play an adverse role. However, this Digital Divide is nothing new. Dr. Hoffman explained that it existed well before the pandemic. Current research tells us that while 80% of all U.S. households have access to internet, 20% do not. And of the 80% who do, it begs the question of the internet’s reliability – there’s access to internet, but is it good internet? Is it strong enough to receive and transmit audiovisual platforms necessary in most telehealth appointments? Digital literacy creates another barrier even when access is not. The Organization of Economic Cooperation and Development was cited by the Department of Education showing that in 2012 digital literacy was at 16% (31.8 million adults), a figure only exponentially increased between then and the pandemic. Dr. Hoffman presented further findings that the traditional three-prong approach

affordability, and digital literacy) are no longer enough to accurately provide a solution. Rather, legislators must also include analyses of poverty, geographic location, and social isolation. While the federal government has funneled vast financial resources (\$400 billion) into providing broadband services, it will not be an overnight task. It will take time to incorporate the necessary infrastructure at the national level. Yet, she applauded the creative approaches that some states are taking to ensure implementation such as Medicaid including telehealth appointments within coverage or states relying on their waiver authority to further invest in the needed technology infrastructure. (Dr. Hoffman has recently published an article that dives deeper into the Digital Divide: Reconnecting the Pa-

tient: Why Telehealth Policy Solutions Must Consider the Deepening Digital Divide: <https://mckinneylaw.iu.edu/ihlr/pdf/vol19p351.pdf>). Attorney Bradley Reed, of Frantz Ward Attorneys at Law, followed Dr. Hoffman with a panel on Legal and Regulatory Considerations for Ohio Teletherapy Practice. Mr. Reed’s practice focuses on working with hospitals, physicians, and other health care providers regarding complex regulatory and compliance issues. He advises clients with respect to HIPAA compliance, Medicare and Medicaid reimbursement, health care fraud and abuse regulations, and medical staff management issues. Mr. Reed’s panel highlighted how expansive teletherapy has become in Ohio inclusive of only real-time audio or more traditional teletherapy audiovisual communications. He explained that since face-to-face initial sessions are no longer required, the patient and provider are able to meet on the phone or through video, text, email, and even instant messaging/chat! However, the provider must be licensed to do so. Licensees shall consider their education, training and experience before providing teletherapy services and only within services they are competent for (sounds pretty on point with a legal practitioner’s ethical responsibility, right?). Interestingly, no specific training or education is required. What is required, though, is being able to assess how cultural and development differences impact different clients. Because the provider and the patient are meeting in the virtual realm, these differences coupled with picking up on non-verbal cues is absolutely critical to providing proper care. Mr. Reed continued to explain how the criteria to provide telehealth as a provider is less about receiving that specific training, but more about being able to still provide the same level of care to the patient. It all comes down to considerations that must be made on behalf of the client, right down to the bare bones of whether the patient should/can benefit from teletherapy. During this screening process, providers must consider the client’s current mental

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The Struggle For A Constitutional Right To Abortion in Ohio Continues

Cole Sundermann
Gavel Contributor

Ohio voters have spoken, but four lawmakers don't want to listen. At the polls on November 7th, 57% of citizens voted 'yes' on Issue 1 to enshrine the right to choose to have an abortion in the Ohio Constitution, set to take effect on December 7th of this year. However, four House Republicans have stated that they will pursue jurisdiction-stripping legislation by removing the courts' ability to review current state laws that restrict abortion access. This would create a legal nightmare where individuals would be unable to challenge these now unconstitutional laws. Additionally, 27 House Republicans have signed on to a letter pledging to do "everything in our power to prevent our [abortion] laws from being removed."

The reasoning behind such legislation? Fear of the courts 'misapplying' Issue 1

and 'benefiting the abortion industry'. In reality, such a law is only to the detriment of all Ohioans. No matter what side you are on in the abortion debate, no one benefits when lawmakers hijack the democratic process. In the post-Roe era, the burden to protect the right to abortion has been left at the feet of the states. Like Ohio, several states have protected the right in their state Constitutions. Alaska, California, Illinois, Kansas, Massachusetts, Michigan, Minnesota, Montana, New Jersey, and Vermont all have or recently enacted constitutional rights to abortion access. This does not include the several states where there are statutes that protect the right. Such legal remedies reflect public opinion as a whole, where 61% of the US population believe abortion should be legal in all or most cases. If a jurisdiction-stripping law is able to pass in the Ohio Legislature, the majority would effectively be silenced by the minority.

Some lawmakers have labeled the potential legislation as mere rhetorical threats. Republican House Speaker Jason Stephens opposed Issue 1, but has taken a more practical approach since election day. Stephens pleaded with his fellow lawmakers, reiterating that we have three branches of government and that lawmakers must abide by Ohio's Constitution. When asked about yet another ballot initiative to thwart the right to abortion in the near future, Stephens noted that there have been multiple failed attempts on this issue and "we all know what the result would be" if proposed again. Republican Governor Mike DeWine, who also opposed Issue 1, was quick to point out that many lawmakers have legislative ideas that go nowhere. "There are 132 members of the General Assembly. On any given day, any one member might think something or say something and might even introduce a bill, but that doesn't mean anything's

going to happen." The Governor and House Speaker's quotes demonstrate that the leaders of the Ohio Republican Party seem to be waving the white flag and believe further fighting is moot. However, some are not so persuaded. House Minority Leader Allison Russo pointed out that some "fringe ideas" have in fact become law under the current makeup of the Legislature. And even if a jurisdiction-stripping law is passed and later deemed unconstitutional by the Ohio Supreme Court, there is no guarantee the Legislature will listen then either. When the Ohio Supreme Court deemed Ohio's Congressional district mapping unconstitutional, the GOP-controlled Legislature made no attempt to restructure the mapping despite court orders. It remains to be seen just how far these House Republicans will go regarding the now constitutional right to abortion access in Ohio.

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action for how citizens can exercise their democratic rights and responsibilities. Moderated by Former Ohio Attorney General Dean Lee Fisher of CSU|Law, the panel opened with Prof. Quinn Yeargain of Widener Law Commonwealth discussing how thinking about state constitutions throughout the U.S. can provide answers for improving our democracy. Prof. Yeargain was followed by two democratic activists who discussed the current fight for democracy and how we can all get involved. Jen Miller, Executive Director of the League of Women Voters ("LWV"), discussed the many democratic victories by the LWV and how it continues to fight against a "rigged" political system. This call to action continued with Bree Easterling's remarks. Bree (Social Justice Outreach and Organizing Specialist with Policy Matters Ohio) echoed the importance of community outreach and civic engagement, especially when considering that the communities that are the least civically engaged are the most negatively affected by the political system.

On behalf of CSLR, I'd like to thank everyone who attended, spoke at, helped plan, volunteered during, and otherwise contributed to making this year's Symposium a success! Special thanks to CSLR members Dana Bye, Abby Jones, Mickey Isakoff, Rachel Reinbolt, Ayah Ighneim, Matt Hosler, and Rachel Wilson for going above and beyond in their work on this event! Additional thanks to Dean Steinglass, Dean Fisher, Prof. Oh, Prof. Glassman, Jill Natran, Elaine Terman, Dr. Angelin Chang, and FG+G for supporting and helping plan this event!

If you'd like to watch this year's CSLR Symposium, see here: (<https://csuohio.hosted.panopto.com/Panopto/Pages/Viewer.aspx?id=5456d4b2-854f-430b-aa72-b0a7012783da>)

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MENTAL HEALTH

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and emotional status, conducive treatment modalities, and the ongoing effectiveness of service. Screening further requires noting any barriers associated with the Digital Divide in particular digital literacy. Teletherapy also impacts record retention inclusive of emails, texts, instant messages, and chats. As with our future clients, informed consent plays a significant role in teletherapy. A provider cannot even begin to provide care without receiving informed consent during the initial appointment. Their consent must acknowledge information relating to (1) the definition of teletherapy, (2) potential risks, security issues, and confidentiality, and (3) impacts of teletherapy on billing and access to insurance. Informed consent may be recorded verbally, through an online signature, or a hard copy form. If informed consent is recorded verbally in the initial session, written consent is required thereafter. Social worker Stacy Simera concluded the conference with a panel on clinical and legal considerations for mental health providers in

the age of virtual therapy. Ms. Simera echoed the comments of screening practices while highlighting that a provider is not obligated to provide teletherapy services when their clinical judgment indicates it is not an appropriate pathway for the client/patient. She provided a clinician's perspective to the challenges of the Digital Divide, noting difficulties in cultural considerations manifesting in inadequate evaluation tools or lack of awareness in different communication styles. She also cited to client-specific environmental factors such as lack of privacy for clients at home, safety concerns, or hygiene cues that are more readily obtainable through in-person appointments. Yet, she highlighted the benefits from increased access to therapy as geographic, transportation, employment, and childcare barriers were removed. Clients often have an increased openness when in their home environment. And finally, data support these benefits. Research and studies are similarly showing no statistical difference in empathic accuracy of the clinician while making remarkable progress with cli-

ents since making the switch to teletherapy practices. Ms. Simera also discussed the consequences of providers not following Ohio guidelines, which have changed since the pandemic. One of significance is that providers can no longer cross state lines to provide telehealth services to clients/patients (a restriction that was waived during the pandemic). Some states, like New York, have continued to provide pathways around similar restrictions. Ms. Simera cited supervision as a sanction for providers who break the rules. Other states' consequences include requiring additional continued education courses, suspensions, personal therapy, fitness evaluations, and fees. Ms. Simera ended by explaining that when in doubt, contact the state licensing board. This mental health and legal partnership will continue with yet another seminar on January 26, 2024. There, the focus will be on human trafficking. The seminar will analyze the topic by examining the growth of webcam sex trafficking domestically and internationally. In addition, legal and mental health implications of online por-

nography will be explored as they relate to porn addiction and the demand for porn. Recent awareness of this topic is spearheaded by the recent arrest of Andrew Tate and the widespread use of OnlyFans and the dark web. You can register for the event at: bit.ly/CSUCEHT using the code "LAWSTU." Timely discussions like these are made possible to us as students by the dedication and hard work of Andrew Heffron, the Continuing Education Coordinator at CASAL, and Dr. Laura Hoffman, Assistant Professor of Law and Co-Director of the Center for Health Law and Policy at CSU Law. They have worked extensively to host these seminars in ways that allow practitioners to obtain CE/CLE credits, but also allow students to attend free of charge. Additionally, Co-Directors Jonathan Witmer-Rich and Robert Triozzi of the Criminal Justice Center and Jill Natran, Manager of Administrative Operations, have been instrumental in bringing these opportunities to CSU Law. In the end, "Telehealth is health. Telemedicine is medicine. Teletherapy is therapy." – Attorney Reed

Background to the Isreal / Palestine War

Dina Usanovic
Gavel Contributor

On October 7, 2023, Hamas—the de facto Palestinian government—attacked Israel. The ensuing war has split countries and people, with some unwaveringly supporting Israel and others speaking out for Palestine. No matter which side you find yourself supporting, it is important to understand the history of the two nations in order to understand what is happening—and why it is happening—today.

While Palestine was not an official country until 1988, the territory known as Palestine was ruled by the Ottoman Empire from 1517-1917. Following the end of WWI, Britain took control of Palestine, and its mandate issued by the League of Nations “included provisions for establishing a Jewish homeland in Palestine,” taking effect in 1923.¹ As Jewish migrants continued flooding the area throughout WWII and after, tensions continued rising and the UN proposed a plan in 1948 to partition the area into two sections: an Arab state and a Jewish state. Since then, however, Israel has successfully taken territory from Palestine, displacing millions of Palestinians over the past 70 years—creating the world’s “longest protracted refugee crisis.”²

The Jewish state itself was created out of violence and genocide. In 1948, the year Israel announced itself as an independent state, the infamous “nakba” occurred, in which

“At least 750,000 Palestinians from a 1.9 million population were made refugees beyond the borders of the state [and] Zionist forces had taken more than 78 percent of historic Palestine, ethnically cleansed and destroyed about 530 villages and cities, and killed about 15,000 Palestinians in a series of mass atrocities, including more than 70 massacres.”³

Unfortunately, it did not end there. In fact, 20 years later, Israel began its occupation of Palestine. Under this occupation, Israel put into place “ruthless policies of land confiscation, illegal settlement and dispossession, coupled with rampant discrimination...depriving [Palestinians] of their basic rights.” The occupation “disrupts every aspect of daily life” and “continues to affect whether, when and how Palestinians can travel to work

or school... earn a living, attend a protest, access their farmland, or even access electricity or a clean water supply.” For Palestinians, “it means daily humiliation, fear and oppression. People’s entire lives are effectively held hostage by Israel.”⁴

Israel has been slowly wiping Palestine off the map, with little effective pushback from the international community. Instead of trying to stop the decimation of Palestine, the U.S. has been donating \$3.8 billion per year since 2016 under a 10-year agreement, basically funding its occupation and takeover of Palestine.⁵ Not only has the U.S. been giving Israel \$3.8 billion per year for the past 7 years (undoubtedly allowing them to stockpile weapons and build their military), but the House approved a \$14.3 billion military aid package to Israel (funded through IRS budget cuts). However, the Senate blocked the aid package due to the fact that it did not include any funding for Ukraine and it “would add \$12 billion to the budget deficit.”⁶



The Disappearance of Palestine

Considering all of this history, it should come as no shock that the events of October 7 took place. Hamas, an extremist Islamic group that is currently leading the Palestinian government, called the operation “Al-Aqsa Storm,” claiming it was a “response to what it described as Israeli attacks on women, the desecration of the Al-Aqsa mosque in Jerusalem, and the ongoing siege of Gaza.”⁷ Hamas also sent militants deep into Israeli territory, killing 1,400 civilians and soldiers and taking almost 200 hostages. Israel responded by incessantly bombing the city of Gaza and blocking the city’s access to food,

water, electricity, and fuel, while refusing to let any of the civilians leave the city.

While it is true that Israel has a right to defend itself—the Hamas attack was seemingly unprovoked, if you do not consider the 70 years of displacement, occupation, and ethnic cleansing—the acts of preventing basic necessities from reaching thousands of innocent people and targeting hospitals, schools, and mosques suggest that Israel is not simply defending itself. Rather, Israel is taking the opportunity to use the excuse of an “unprovoked” attack to conduct a genocide and take even more Palestinian territory without much international pushback. A member of the Israeli government even explicitly said that the government is “now rolling out the Gaza nakba.”⁸ The people of Israel certainly deserve peace and security, but so do Palestinians.

There is no excuse for what Hamas did to Israel. Yet, as rabbi and Jewish scholar Norman Finkelstein posits, “does it really surprise you, is it really a shock, that... the people of Gaza, most of whom...were born in that

journalists.¹² Until one has placed themselves in the circumstances the Palestinian people have experienced for the past 70 years, their response to those circumstances should not be criticized.

The UN Commission of Inquiry has been collecting evidence of war crimes on both sides of the conflict. Hamas’s initial attack constituted a war crime—“massacring civilians is a war crime and there can be no justification.”¹³ However, Israel has to answer for its war crimes, as well. First, the siege is “collective punishment,” which violates international law and constitutes a war crime.¹³ Second, Israel’s military directed civilians to leave their homes and relocate to the Southern end of Gaza in preparation for an Israeli ground offensive. This is “not an evacuation opportunity, it’s an order to relocate,” which is called “forcible transfer of populations” and is a war crime.¹³

Further, Israel’s bombing of schools, mosques, hospitals, UN facilities, and refugee camps seems pretty questionable. As a BBC news anchor pointed out when in-

several health and livability concerns. Importantly, it has led to phone networks going down, causing a complete blackout and completely cutting Gaza off from the rest of the world. Not only is this causing issues with those injured reaching ambulances and the few hospitals that are left, but it is also depriving people of lifesaving information. Further, according to the senior technology researcher at Human Rights Watch, “[p]rolonged and complete communications blackouts, like those experienced in Gaza, can provide cover for atrocities and breed impunity while further undermining humanitarian efforts and putting lives at risk.”¹⁷ Finally, “the use of white phosphorous in Gaza, one of the most densely populated areas in the world, magnifies the risk to civilians and violates the international humanitarian law.”¹⁸ White phosphorous is extremely incendiary, and it will cause severe burns, lifelong suffering, and could lead to death if it makes contact with a person’s body.

This war has left a major impact on the international community. It is impossible and unwarranted to condemn one side without sympathizing with its losses. It is, however, incredibly important to place the current situation in the context of the history of the past 100 years. The history of what Palestine has experienced as a country, while not justifying its attack on Israel, certainly provides some context as to how the conflict seemingly erupted to a lethal degree in a matter of hours. Importantly, the UN Security Council passed a resolution requiring “urgent and extended humanitarian pauses and corridors throughout the Gaza Strip.”¹⁹ While this binding international law, it would not be the first time Israel has not complied with international law. However, the fact that arguably Israel’s biggest ally, the United States, abstained from the vote rather than exercising its veto (as it has for the previous proposals) may create some extra pressure on the Israeli government to comply. A question asked by MSNBC news anchor Mehdi Hasan to Israeli advisor Mark Regev leaves a lasting impression: “If Hamas were hiding in a school in Tel Aviv...would [the Israeli government] utilize the tactics being used in Gaza to eradicate them?”²⁰

concentration camp...that they would do something desperate to break free of that concentration camp? And who dare criticize whatever tactics they employ?”⁹ It is terrible that hundreds of innocent Israelis have died or been seriously injured in the attacks. However, it is impossible to ignore the fact that 11,200 Palestinians (4,500 children) have died; 2,700 (1,500 children) are missing under rubble; and that 1.6 million Palestinians were forced from their home, their freedoms so greatly infringed upon that it cannot be said that they have any quality of life at all.¹⁰ In addition, the siege has killed 102 UN workers¹¹ and 42

interviewing an Israeli spokesperson, “it’s convenient, isn’t it, that whenever there’s an Israeli strike on a facility in Gaza, you just tell us that Hamas is operating there?”¹⁴ As law professor and author Khaled Beydoun, among others,¹⁵ has pointed out, the evidence which Israel uses to justify its attacks on hospitals and other civilian buildings is “thin,” incorrect, or “nonexistent.”¹⁶ For instance, the Israeli military inaccurately suggested that a calendar with days of the week written in Arabic was a sheet on which Hamas terrorists signed their names.

Additionally, Israel’s siege has resulted in the strip running out of fuel, leading to

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Democracy’s Promise And The Fight For Its Future: *Cleveland State Law Review* Symposium

Ernie Olesky
CSLREditor in chief

On October 27, 2023, Cleveland State Law Review (“CSLR”) held its annual Symposium. This year’s topic, “Democracy’s Promise and the Fight for its Future,” was inspired by longstanding and recent caselaw impacting American democracy (e.g., *Brown v. Board of Education*, *Shelby County v. Holder*, *Rucho v. Common Cause*, *Allen v. Milligan*, *Moore v. Harper*), as well as big upcoming elections (e.g., Ohio’s 2023 General Election and the upcoming 2024 Presidential Election). The Symposium proceeded in four panels, a special message from Former Attorney General Eric Holder, and a Keynote Address from former Chief Justice of the Ohio Supreme Court Maureen O’Connor, each summarized below.

Panel 1: Democracy’s Promise – Moderated by

Kayla Griffin (President of the Cleveland NAACP), the first panel reflected upon the 70th anniversary of *Brown v. Board of Education*. Former Chief Judge of the Northern District of Ohio, The Honorable Solomon Oliver, Jr., chronicled the history of caselaw and institutional racism leading up to the seminal decision in *Brown*. Judge Oliver was followed by Prof. Caitlin Millat of Arizona State University, whose comments addressed how, even post-*Brown*, the law today unfortunately still falls short from fully providing equal education to all—even after desegregating schools—and thus falls short in supporting democracy. Then Prof. Reginald Oh of CSU|Law proposed a solution: acknowledging and effectuating *Brown*’s underlying principle of loving all of humanity as equals. Prof. Matt Nelson of the University of Miami concluded the panel by asserting that education can better facili-

tate democracy by teaching students with textbooks that discuss the agency and grassroots political action of marginalized groups that acknowledge the impact and importance of marginalized communities to American history and democracy.

Special Message from Former U.S. Attorney General Eric Holder – Former U.S. Attorney General Eric Holder recorded a message to attendants of the Symposium. Mr. Holder discussed the fight for and concerns over American democracy, as well as the significance of recent cases—particularly how *Allen v. Milligan* protects voting rights by finding a 2021 Alabama redistricting map violated the Voting Rights Act when it enabled the White majority to consistently defeat Black voters’ preferred candidates.

Panel 2: Democracy for Whom? – The second panel continued the discussion on how partisan redistricting, otherwise known as gerry-

mandering, impacts democracy and was moderated by Prof. Brian Glassman of CSU|Law (who will be teaching an Election Law course in Spring 2024!). Associate Dean Michael Gentithes of Akron opened the panel with a discussion on partisan gerrymandering and how federal courts punt the matter of when gerrymandering is too partisan (despite the emergence of numerical calculations that seemingly do just that) post-*Rucho v. Common Cause*, along with a discussion of how state courts and state constitutions may be able to fill this gap. His remarks were followed by law professors from Case Western Reserve: Profs. Jonathan Entin and Atiba Ellis. Prof. Entin discussed how SCOTUS’ increasing deference to the political process cuts against democracy’s promise, and Prof. Ellis addressed racial discrimination in voting with his remarks on how race-neutral redistricting and “colorblind” jurisprudence (the kind that is promoted in cases like *SFFA v. Harvard*) undercuts the Voting Rights Act’s original, race-conscious intent. Panel 2 closed with Ms. Elizabeth Bonham of the Friedman, Gilbert + Gerhardstein (“FG+G”) law firm describing the impact of the aforementioned caselaw in 6th circuit cases from a practitioner’s perspective.

Keynote Address from Former Chief Justice Maureen O’Connor – C.J. O’Connor’s remarks, which were written about by both Cleveland.com (<https://www.cleveland.com/open/2023/10/former-chief-justice-ohio-restrictions-signal-not-all-are-welcome-to-vote.html>) and the Cleveland Scene (<https://www.clevescene.com/news/voter-purges-gerrymandering-examples-of-continued-failures-in-democracy-says-former-ohio-supreme-court-justice-43014058>) discussed various threats to democracy, such as low voter turnout, elected Ohio officials “eradicating” voters from registration rolls, and Ohioans failing in their responsibility to vote due to an implicit message from the Ohio state government: that not all are welcomed to vote.

Panel 3: Democracy & The Ohio Constitution – The third panel was moderated by Brett Larkin, the Plain Dealer’s former Editorial Page Director and current columnist for Cleveland.com. This panel, focusing on our state’s constitution and how it can be used to further democracy’s promise, began with Dean Emeritus Steven Steinglass of CSU|Law chronicling the history of the Ohio Constitution. Next spoke Former Ohio State Senator Mark Wagoner, who focused his remarks on why initiated statutes are a more effective exercise of direct democracy via the Ohio Constitution than the Ohio Constitutional Amendment process. This panel’s opening remarks closed with two current Ohio Supreme Court Justices: Justices Michael Donnelly and Melody Stewart. Justice Donnelly emphasized the inappropriateness of requiring state justices to face general elections with party designations when the judiciary should be separate from partisan politics. Justice Stewart emphasized how civic education is integral to realizing the progressive and innovative goals of the 1912 Ohio Constitutional Convention, as well as to realizing democracy’s promise and fighting for its future.

Panel 4: Our Fight For Democracy’s Future – The symposium closed with a call to

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