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THE GAVEL

VOLUME 72, ISSUE 6

THE STUDENT NEWSPAPER AT CLEVELAND STATE COLLEGE OF LAW

APRIL 2024

2023-2024 SBA Year in Review

The 2023-2024 SBA has been hard at work building community, promoting transparency, and advocating for the CSU Law student body. As the semester comes to a close, and as we begin to turn our attention to next year, we thought we should give you a snapshot of what we've done this year:

- Led the fight to lift the ban on paid externships, including:

- Researching and drafting a comprehensive 42-page proposal to lift the ban and introduce private firm placements;

- Holding a Listening Session attended by more than 40 students and faculty members to discuss the impact of the ban;

- Holding dozens of meetings with students, faculty, practitioners, and staff to evaluate the issue from all angles;

- Engaging the student body on the issue with two surveys (which each had well over a hundred responses), regular Gavel article updates, social media, and posters, including speaking out when we were concerned about the way the school was handling the decision making process; and

- Meeting with the Ad Hoc Committee on Externships to work toward a solution of the issue, including drafting a memorandum suggesting possible ways to implement private firm placements without

creating an excessive administrative burden.

- Working with the journal editors, successfully advocated for the school to offer an additional credit hour for journal associates to reflect the work they put into their publications.

- Successfully advocated for student involvement in the faculty decision on whether to change the semester schedule, including drafting and circulating a student survey (which had 159 responses) and presenting the results to the faculty.

- Responded to declining bar passage rates by contacting and following up with the CSU bar readiness team to ensure that they are putting together an action plan, then shared said plan with the student body.

- Responded to student concerns by advocating for improvements to the JDO program, including more live interactions with professors, better fitting residency weekends around the academic calendar, expanding networking opportunities (including connecting students with employers in their areas), clarifying how experiential learning will work, and offering better legal writing support.

- Responded to student concerns by working with the administration to draft and circulate a student survey on issues around class scheduling.

- Improved transparency by sharing meeting agendas, meeting minutes, and zoom links for SBA



meetings with the student body.

- Welcomed two representatives from the brand-new JDO program and began transitioning leadership of the Part Time, Dual Degree, and Non Traditional Students Committee to JDO students.

- Commemorated Hispanic, LGBTQ, Native American, Black, Women's, and Arab history months.

- Helped promote the upcoming Denim Day to help commemorate sexual assault awareness month.

- Successfully advocated for expanding exam review hours to accommodate evening students.

- Wellness Committee ran the SBA Student Support Hour to create a peer led space for both full time and evening students to provide support and community.

- Provided over 600 hours of store/office hours to make ourselves available

to our peers for questions or concerns.

- Participated in multiple admitted students' events.

- Participated in 1L student orientation.

- Conducted an SBA Member of the Month program to recognize the accomplishments and contributions of our outstanding peers.

- Awarded Faculty and Staff Member of the Year.

- Performed a full review of the election guidelines to remove ambiguity and improve consistency.

- Performed a full review of the SBA Constitution to improve clarity and accountability.

- Distributed over \$31,000 in university funds to student organizations in the face of over \$10,000 in funding cuts.

- Funded Barrister's with half the university funding as last year.

- Participated in the CSU Alumni Association board meetings.

- Successfully provided multiple budget request training courses for student orgs in addition to a number of one-on-one training courses, as needed.

- Participated in new faculty and staff interviews.

- Planned numerous events, including Barrister's Ball and a successful fundraiser at Porco's Lounge and Tiki Room.

- Provided coffee and donuts during finals.

- Managed the President's Council to gather student org presidents and leaders to share ideas, create collaborations, share calendars, and provide resources for continued success.

Ongoing

- Finalize Constitutional language splitting the LLM and MLS Senator position into two positions, thereby allowing the LLM and MLS programs to each have their own representative in SBA.

- Finalize Constitutional language allowing LLM students to run for one-semester terms in order to make it more realistic for LLM students to get involved in SBA.

- Finalize other Constitutional amendments meant to improve clarity and accountability.

- Continue working with the Ad Hoc Committee on Externships to ensure that students' voices are heard on the issue of paid externships.

- Conduct elections for the 2024-2025 SBA Executive Board and Senate.

Hold Barrister's Ball.

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Bar Review is Back!

Jake Wrege and
Annaliese Nunes
Gavel Contributors

This is NOT an April Fool's joke. Mark your calendars, because "Thursday" is about to be your favorite day of the week. CSU Law students can once again look forward to gathering with their classmates near campus at the end of a long week and saying "Cheers!"

We are always grateful to catch our breath and chit-chat with a classmate over lunch. The atrium takes on a more relaxed atmosphere as we snack on our monthly sidebar pizza. Study groups in the law library certainly build comradery between students. But isn't there something missing? A chance to truly unplug, socialize, and connect with our CSU Law family in a space unassociated with cold calls, outlines, and casebooks?

When Jake Wrege started his first semester of 1L in the Fall of 2022, he asked himself these questions. And as fate would have it, one evening his phone rang.

"A friend of mine who attends a different law school called me to catch up and see how I was enjoying life as a law student. The first question she asked me was, 'Have you gone to bar review yet?' I was rattled. Dean DeSantis had told me



Jake Wrege, left, passing the "torch" to Annaliese Nunes, right.

during JumpStart that every day was bar-prep day. Was I missing something? 'No, not bar exam review' she explained, 'Don't the 1Ls at your school go out for food and drinks after class at the end of the week?' I asked her if it was some sort of student organization or club. 'It's unaffiliated with the school technically. But there is a social media page and flyers that are posted in the halls. It's almost every week. I thought every law school did it. You guys don't have a bar review?' Something had to be done. I created an Instagram account, ([csulaw_bar_review](https://www.instagram.com/csulaw_bar_review)) and whipped up a logo on my computer. I made my own digital fliers and sent them out to everyone I could. I figured that it was worth a shot. I had no idea that dozens of my classmates would swing by every week. People would ask me after class or text me: 'Hey! Is there a bar review this week? Where is it?'

The funniest thing about it is that up until now, my name has never even been formally attached to it. And that's what makes it special. It's not an invitation from a classmate. There is no pressure to network or show interest in any particular student organization. No RSVP. No guest list. No admission fee. The way I see it, bar review is a reminder that even if you feel lonely or isolated, you are a part of a community. It doesn't matter if you don't know anyone who is going. The classmates you have never spoken to, and the folks from a different

cohort or section than you aren't strangers. At Bar Review, they are just friends that you haven't met yet. This tradition is very important to me, and I am so glad that I am able to pass the torch to someone who is also passionate about it!"

-Jake Wrege, CSU Law Bar Review "founder"

Last year, mostly 1Ls, but still a fair share of 2Ls and 3Ls alike knew to keep their eyes open for where and when the next "official" CSU Law Bar Review would be held (usually Becky's Bar right next to campus on Thursdays). Unfortunately, one day the Instagram page fell silent, and the flyers stopped being sent. It's true that as one progresses through law school one becomes busier and more involved with clerkships, extracurriculars, and of course a different, and arguably less fun, type of bar review. But there is always still time for friends and comradery, isn't there? Thankfully, Annaliese Nunes, a 1L at CSU Law, recently asked herself: "So, whatever happened to Bar Review?"

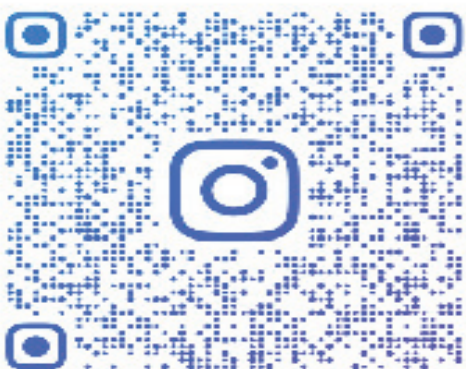
"I chose to come to CSU Law because it seemed like more than a law school - it seemed like a real community full of diverse individuals with similar goals, who supported each other to reach those goals. Prior to entering 1L, I spoke with rising 2Ls who spoke about this thing called "Bar Review." They talked about how great it was to relax and socialize with fellow classmates outside of school and how they

made real friendships that carried on outside of the bar. While Bar Review took a temporary hiatus, the 1L class still found ways to socialize outside of school but I always felt that something was missing. I heard about how Bar Review brought together both sections of the 1L class the previous year, and I wanted that for our class. When I found out that Jake was the one to start Bar Review, I made it my mission to convince him to restart it with my help. To my surprise, he trusted me to take over the Instagram account and organize the return of Bar Review. I decided that the return needed to happen ASAP, so I made a digital flier and started telling as many people as I could to show up to Becky's on Thursday, March 7th.

The first Bar Review of 2024 had a better turnout than I expected; we had a large number of 1Ls, several 2Ls and even a 3L show up to hang out and have a good time. I know we are approaching the most dreadful time of the semester - midterms have passed, finals are quickly approaching and we're all more busy than we can handle, but that shouldn't stop us from taking some time to relax and enjoy time with our friends. I am hopeful that we can come together again for Bar Review before the semester comes to a close and maybe again after our finals. I want as many people as possible to have the opportunity to meet classmates they don't know and feel included in the amazing community that we have at our school. It doesn't matter if you don't know anyone who is going because by the time you leave, you'll have made friends and had a great time. Come for one beer, or stay for a few, either way Bar Review welcomes you!"

-Annaliese Nunes, CSU Law Bar Review "new proprietor"

Bar Review is completely unaffiliated in every sense of the word. You won't find a page for it on the law school website. Your student email won't receive any notifications regarding the date, time or location. But make no mistake, it is back. And this time, it is here to stay. And of course, all are welcome. Follow to always know where and when Bar Review is!



@CSULAW_BAR_REVIEW

"Stars Beyond the Sky:" BLSA Banquet Celebrates One of CSU|Law's Strongest Student Organizations

Philipp Corfman
Gavel Contributor

For decades, the CSU Black Law Students Association (BLSA) has been one of the strongest organizations at CSU Law. On March 23, 2024, the group celebrated its successes at the annual BLSA Banquet.

The BLSA Banquet is one of the most impressive and well-attended events put on by any CSU|Law student organization. The Banquet raises thousands of dollars for an annual scholarship for Cleveland-area students. It also brings together CSU Law students, faculty, alumni, and the broader Cleveland legal community, providing networking opportunities and building a sense of comradery, particularly among Black lawyers and law students. The 2024 BLSA Banquet, held at the CSU Glasscock Ballroom, was no different—the room was full of prominent lawyers, elected officials, and judges (including Ohio Supreme Court Justice Melody Stewart).

The Banquet program opened with a list of the group's accomplishments. While the Banquet is the largest event that BLSA puts on, it is far from the only one. Among others, the group has held study tables, social events, service events, movie nights, and writing support sessions. In February, BLSA sponsored "A Long Talk About The Uncomfortable Subject," an event focused on combatting casual racism. BLSA also puts on the cherished annual Review Sessions for 1L and bar-tested courses, which have long been lifelines for students preparing for final exams.

The event also recognized CSU Law BLSA's remarkably successful Mock Trial and Moot Court teams. The Constance Baker Motley Mock Trial Team competed at the National BLSA Convention last year, and Isura Adedokun and Meagan Holloway-Ragland of the Thurgood Marshall Moot Court Team went to nationals this year.

The BLSA Banquet then recognized BLSA's officers, without whom this impressive list of accomplishments would not be possible: President Aireus Johnson, Vice President Isura Adedokun, Corresponding Secretary Toni Kolawole, Recording Secretary Reece Barnett, Historian Selah Ingram, and Parliamentarian Ellenia Matthews.

Next, the program recognized two leaders who exemplify Black achievement in the law: keynote speaker Dolores Garcia, and honoree Judge Una H.R. Keenon.

Because Judge Keenon could not attend in person, Judge Patricia Blackmon accepted her award on her behalf. Judge Blackmon gave a moving address about Judge Keenon's many accomplishments, including many firsts (among which is forming Johnson, Keenon & Blackmon, the first Black-woman-run law firm in Ohio and one of the first in the country), and concluded by thanking BLSA for the vital role the group plays in the Black legal community.

Garcia was introduced by her father, former Colorado Lieutenant Governor Joe Garcia, who outlined her many accomplishments (including becoming a partner at Ulmer & Berne while raising nine children). Dolores Garcia then discussed many of the difficulties of being a woman of color in the legal field, from being mistaken for a defendant at the courthouse to being told that she only got into Harvard Law School because she is half-Black, half-Latina. However, she emphasized the need for lawyers of color to cultivate a sense of self-



Ray Singletary, BLSA President-Elect Speaking at BLSA Banquet

confidence independent of the opinions of one's white colleagues, to have pride in one's achievements and to avoid the trap of self-doubt. She closed by reminding Black law students to remember their "why," noting how important it is for them to represent their community in boardrooms, courtrooms, and political offices.

This was an essential part of the program, and underscores one of the most important roles of BLSA: to encourage Black achievement and overcome the severe lack of Black representation in the legal field. A recent study by the ABA found that the percentage of Black lawyers has actually decreased in the last ten years, from 4.7% to 4.5%—an abysmal percentage, given that the overall US population is over 13% Black. This lack of diversity in the legal field has many causes, from the growing cost of a legal education, to the exclusive, cliquish nature of the legal community, to systemic biases in admissions practices like the LSAT. Homogeneity is also self-perpetuating; it is often quite difficult and alienating to be one of few Black students at a mostly-white law

school, which contributes to Black students facing higher attrition rates than white students.

BLSA is critical to fighting against these trends and making CSU Law a welcoming space for Black students. The group actively reaches out to new students, making them feel welcome, inviting them to make friends at BLSA-sponsored social events, and directly supporting them with study tables and writing sessions. BLSA also encourages group participation, cycling officer positions annually and holding frequent general body meetings, thereby giving rank and file members a sense of ownership in the group. BLSA connects Black students to job opportunities, regularly sharing job openings and networking opportunities with members. By sponsoring an annual scholarship, BLSA also reaches beyond the law school itself, expanding opportunities for students before they go to college.

The work of expanding Black legal representation is far from over. CSU Law is still a disproportionately white school, and the pressure of tuition costs continues to systematically exclude students of color. However, BLSA has done its part to close the gap for Black students at CSU Law.

BLSA ended the Banquet program by returning its focus to the group itself. It handed out Outstanding Member awards to 3L Danny Antwi and 2L Isura Adedokun, and the Outstanding Alumni award to Jewel Heath. It then recognized the newly-elected slate of offi-

cers for the 2024–25 school year, including President Ray Singletary, Vice President Betty Miller, and Parliamentarian Justin Saxton. With the program complete, attendees returned to chatting, dancing, and enjoying a night of celebration.

Like any student organization, BLSA sometimes falls short of its ideals. Members disagree, often vehemently, about how the group is run. But this disagreement shows how much members care. Many student organizations wish that their members would care enough to show up to meetings and speak out. For any of the organization's occasional shortcomings, BLSA members share a commitment to continuing BLSA's legacy.

"The banquet is important," President-Elect Ray Singletary told me, "because it allows us to not only celebrate who we are and what we have done, but also what we can be. BLSA can become a place of solace and reminds us that we are not alone in the struggle that is Law School. It can become a place of service to remind us that we can still do good in our community. It can become a place of strength to remind us that together we can do more than the sum of our parts. I say what BLSA 'can be' because we haven't tapped into our full potential yet. So, I plan to create a foundation of trust, togetherness, and integrity that our members can be inspired by."


ABA survey finds 1.3M lawyers in the U.S., ABA (June, 2022), <https://www.americanbar.org/news/abanews/aba-news-archives/2022/06/aba-lawyers-survey/>.

Marisa Manzi and Nina Totenberg, *'Already Behind': Diversifying the Legal Profession Starts Before the LSAT*, NPR (December, 2020), <https://www.npr.org/2020/12/22/944434661/already-behind-diversifying-the-legal-profession-starts-before-the-lsat>.


Kylie Thomas, *ABA Data Reveals Minority Students are Disproportionately Represented in Attrition Figures*, AccessLex (September, 2018), <https://www.accesslex.org/xblog/aba-data-reveals-minority-students-are-disproportionately-represented-in-attrition-figures>.

Stars Beyond The Sky

Annual Scholarship Banquet



DOLORES (LOLA) GARCIA
KEYNOTE SPEAKER



JUDGE UNA H.R. KEENON
HONOREE

Unraveling the Texas Border Standoff: A Closer Look

Allison K Younger
Gavel Contributor

Border crossings have been in contention for years. One side of the aisle aims to lock the border down, barricading people from coming in. Another side of the aisle seeks more open borders with less of a military presence. These debates have roiled American politics for years; however, since 2007, every attempt at a comprehensive legislative solution has ended in failure.

In 2024, Texas Governor Greg Abbott decided to take matters into his own hands. Governor Abbott deployed the state National Guard against federal authorities in January. This is the first time a Governor has done so since 1957, during the famous Little Rock Nine walk. The National Guard was deployed to block U.S. Border Patrol from accessing a

2.5-mile-long section of the U.S. border in the city of Eagle Pass. Within this section is Shelby Park, a place where Border Patrol officials have been using for processing encountered migrants. Governor Abbott's decision effectively locked them out of that park, making them unable to utilize it as they have in the past.

This has spiked tensions between Texas and President Joe Biden. Governor Abbott accompanied his deployment of the National Guard with a letter declaring that "the federal government has broken the compact between the United States and the States" and classifying border crossings as "an invasion." Democrats responded by calling for President Biden to federalize the National Guard.

This has also led to deep legal turmoil with multiple rulings at various court levels adding to the chaos. The



Image of Texas border from NBC News

latest measure at issue is SB 4, a law that allows Texas to arrest and even deport people suspected of crossing the border illegally – which flies directly in the face of the federal government's authority on such issues. The Supreme Court ruled this law could proceed while the appeals process plays itself out in the lower courts. Right after that, the 5th Circuit Court of Appeals put the law on hold

again, waiting to hear new arguments on SB 4.

Immigrant advocacy groups warn this law could lead to civil rights violations, racial profiling, and arrests. SB 4 makes it a Class B misdemeanor for those who cross the Rio Grande River, punishable up to six months in jail for your first offense. After the first offense, any subsequent offense is a second-degree felony, with a

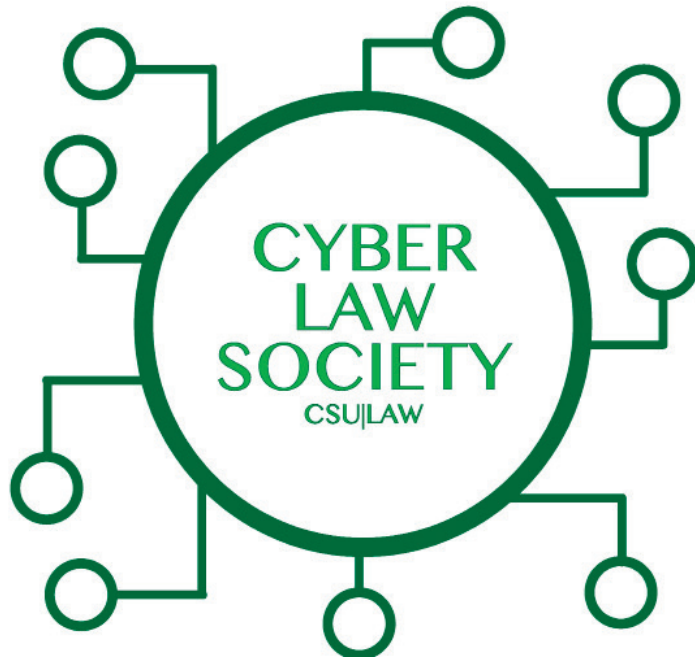
punishment ranging from two to twenty years in prison. Governor Abbott is pushing for SB 4 to "protect the border"; however, due to this potentially becoming state law, it would apply to all of Texas, not just the border, leading immigrant advocacy groups to fear for what these means for all migrants in Texas, especially mixed-status families.

The border has been a point of contention, a lobbying chip, and a debate topic for years. The states have been at odds with Washington all along. SB 4 adds yet another layer to this divide, one that I am sure will not be solved anytime soon. Arguments were just heard in the 5th Circuit Court again on SB 4 with another hearing scheduled for April 2; it is unclear whether a ruling will come from the three-judge panel at that time. This is a developing story, that appears to have no clear answer in sight.

What If We Let AI Write the Law?

Matthew Weisman
Vice President of the
CSU Cyber Law Society

Take a second and navigate to chat.openai.com, the URL belonging to the now infamous ChatGPT Artificial Intelligence Large Language Model (AI LLM). The dialogue box at the bottom prompts you to send a message to ChatGPT, as if it were a flesh and bone individual on the other end. Type a question or request out and you're almost instantaneously shown a response that, while it doesn't quite feel human, feels far from the simple accuracy that IBM's Watson gave on its run to a Jeopardy championship. That is the nature of modern AI; not simple one-word answers but eloquent, often well thought out responses. But what impact



might this technological development have on the legal profession? CSU Law's Cyber Law Society (CLS) recently explored one of those potential impacts at their "AI Writes the Law" event.

Armed only with an AI LLM, either OpenAI's ChatGPT, Google's Gemini, or Microsoft's CoPilot, indi-

viduals were asked to create a law that prohibited the use of vehicles in the park. There were no rules, save that their submissions, the laws they formulated with the AI LLMs, must consist only of the AI LLM's responses. By exploring the abilities of each of these different AI LLMs, the group came away

with some very interesting conclusions.

Most interestingly, each AI LLM had a different response when prompted to write a law. While ChatGPT dove right in and produced a rough law, Gemini initially stated that it could not write a law and suggested the user should consult an attorney. After explaining that the law would be for purely non-regulatory and non-legislative purposes, Gemini conceded. After much refining, all three of the AI LLMs produced well written laws prohibiting vehicles in the park, but one stood out from the rest.

Microsoft's CoPilot, fueled by Dylan Ramsey's input, created far and away the best law, and it wasn't particularly close. Each AI LLM did well in defining what a vehicle was for the purposes of the law, but CoPilot went beyond by taking into account

nearly any type of vehicle and scenario possible. CoPilot's law included schedules for fines and noted precisely where those fines would be going. CoPilot even required transparency in the fund allocation process as part of the statutory text.

Each AI LLM produced a functional and detailed law, but none of these laws would be possible if not for the well thought out inquiries by the users. All of these AI LLMs draw from a massive wealth of information, and to make the best use of that information, any user must be able to work *with* the AI rather than simply use it as a tool.

In the end, regardless of whether you think AI is coming for your job or that it's not worth losing sleep over, one thing we should all agree on is that it has great potential to make the practice of law more efficient and allow its practitioners to draw on a wider array of knowledge than ever before.

The Gavel welcomes all readers to reflect on our Paper's former stories within future issues! Former issues of The Gavel can be read at: <https://www.theclevelandstategavel.org>

LEARN LAW. LIVE JUSTICE. RELIVE THE PAST.

Paid Externships Update: Uncertainty and Optimism

Philipp Corfman
Gavel Contributor

Back in late January, the CSU Law SBA submitted its proposal on paid externships to the Ad Hoc Committee on Externships. Since then, while no decisions have been made, and while we continue to be concerned about the lack of student involvement in the decision-making process, we remain optimistic that CSU Law may finally reach a positive resolution on this essential issue.

On January 29th, 2024, after months of research, meetings, and surveys, SBA passed a comprehensive proposal calling on CSU Law to:

- 1- Lift the ban on paid externships.
- 2- Lift the ban on externship placements in private firms.
- 3- Lift the ban on externship placements at current and previous employers.

From there, the process passed from SBA to the

school. Instead of the Curriculum Committee, the issue is being evaluated by the Ad Hoc Committee on Externships, a new committee convened by Dean Lee Fisher and chaired by Professor Robert Triozzi. SBA registered its disagreement with this process, since the Ad Hoc Committee has no student representatives, but remained ready and willing to work with the committee.

Shortly after the Ad Hoc Committee was formed, Professor Triozzi reached out to SBA, asking us to convene a group of students to meet with the Ad Hoc Committee to discuss the proposal. SBA did so—the group included Jalela Jallaq, Philipp Corfman, Holly Lloyd, Annaliese Nunes, Lauren Bayerl, and Emily Forsee. We then scheduled a meeting with the Ad Hoc Committee for February 23rd.

This meeting was an opportunity for both sides to fully articulate their views and begin to search for potential solutions. Student representatives listed our views, with

which CSU Law students will likely be familiar. We argued that the paid externship ban is a severe economic burden on students, stifles students' careers, severely disadvantages JDO students, is not pedagogically necessary, and is nearly universally opposed by the student body.

The faculty and administrators in the Ad Hoc Committee raised a number of concerns, some of which were familiar to us and some of which were new. They noted the potential risks of conflicts of interest, student exploitation, and a weakened pedagogical value for paid sites where supervisors have an economic interest in results from the extern.

In our (the student group's) view, the most salient concern the Ad Hoc Committee raised was the risk of administrative burden. If the school immediately opened the floodgates to any private firm to apply for an externship site, we would not have the administrative capacity to deal with the resulting

flood of applications. Each site needs to be appropriately vetted to ensure that it meets the ABA standards for experiential learning, and this would be impossible with an uncontrolled deluge of private firm externship applications.

We sympathize with this challenge, but believe it is surmountable. So, we drafted a memorandum listing several non-mutually-exclusive methods by which the school can incrementally introduce private firm placements without overburdening our administrative capacity, including:

- 1-Setting a hard cap on the number of new sites introduced each year.
- 2-Creating a rigorous application process to weed out substandard sites.
- 3-Limiting eligibility for private firm placements by student need.

We submitted this memorandum to the Ad Hoc Committee on Wednesday, March 6th, and Professor Triozzi

assured us that the group would take these options into consideration.

We are now awaiting a response from the Ad Hoc Committee, including where they are in their discussions and whether there will be another meeting with the student group.

While we remain concerned about the closed nature of the Ad Hoc Committee's deliberations over this issue, and while there have been no promises or decisions made, we are nevertheless optimistic about the future of paid externships. Several members of the Ad Hoc Committee appeared to be open to at least lifting the ban on compensation for current externship sites, and to lifting the ban on private firm placements on some incremental basis. While uncertainty remains, we are optimistic that CSU Law is closer than it has been in years to finally reaching a resolution on the issue of paid externships.

Ohio Constitutional Law and History Website and the Ohio Constitution News Blog

Cole Sundermann
Gavel Contributor

Steven H. Steinglass, Dean Emeritus/Professor Emeritus of the Cleveland State University College of Law, announces the addition of a new blog, Ohio Constitution News, to complement the Ohio Constitutional Law and History website. The website, which has been available for more than a decade, contains a treasure trove of information about the Ohio Constitution. The blog, which is on a new platform, reports on current developments. Both the website and the blog are described below with links. (check out this article online at thelevelandstategavel.com)

The website includes the following information about the Ohio Constitution:

- Primary Sources. The Northwest Ordinance, the 1802 Enabling for the State of Ohio, the 1802 and 1851 Ohio

Constitutions as well as information concerning the 1912 Constitutional Convention

- Court Decisions. Summaries of Ohio Supreme Court decisions addressing Ohio constitutional issues and a Pipeline of cases being considered by the court
- Table of Proposed Amendments. All amendments proposed since the adoption of the 1851 Constitution, the votes on the amendments, and in many cases the joint resolutions and initiatives proposing them
- Statistical Tables on Constitutional Revision
- Ohio Constitutional Modernization Commission
- Bibliography of Secondary Sources

During the last year, new items added to the website include the updating of the Table of Proposed Amend-

ments and related statistical tables; summaries of the Ohio Supreme Court's leading state constitutional law decisions through February 2024, and monthly posting of Pipeline, which identifies cases pending in the Ohio Supreme Court involving state constitutional issues.

The Ohio Constitution News blog enables those interested in the Ohio Constitution to sign up without charge to receive email notifications of new developments concerning Ohio constitutional law, additions to the website, Ohio constitutional stories, and commentary on the Ohio Constitution.

The most recent Ohio Constitution News postings address the Ohio's Constitution's having passed the 60,000-word threshold, the availability of a free Ohio Constitution App for your cell phones and tablets; a review of the 23 Ohio Supreme Court decisions from 2023 involving the Ohio



Image of Steven H. Steinglass

Constitution, and the origin of judicial review in Ohio.

The Ohio Constitutional Law and History website (see link) and the Ohio Constitution News blog (see link) were developed by Dean Emeritus & Professor Emeritus Steven H. Steinglass and the Law Librarians at the Cleveland State University College of Law. Neither the website nor the blog is an official publication of the Ohio Supreme Court or

the State of Ohio.

Interested persons can go to the Ohio Constitution News blog (see link) and subscribe for free to receive periodic emails.

For information about the website or the blog, contact Dean Emeritus/Professor Emeritus Steven H. Steinglass at 216-469-6619 or s.steinglass@csuohio.edu

2024 Primary Leaves Ohio Politics In The Balance

Philipp Corfman
Gavel Contributor

Despite the growing strength of Republicans in Ohio in recent years, Ohio politics has, in some ways, remained fairly moderate. That could change after this year.

First, Ohio may lose its only statewide non-judicial Democratic elected official: Senator Sherrod Brown. Brown is being challenged for reelection by Bernie Moreno, the Donald Trump-endorsed Republican Senate nominee who handily defeated State Senator Matt Dolan and Secretary of State Frank LaRose in the 2024 Republican primary.

Since 2006, Brown has been a bulwark of Ohio Democratic Party strength, earning solid support from working class Ohioans by campaigning on upholding the Dignity of Work and advocating for pro-labor policies. In 2018, while the rest of the Democratic ticket in Ohio went down in defeat, Brown won reelection by 7%.

However, Brown is nevertheless vulnerable in 2024. Ohio has solidified its status as a red state, voting for Donald Trump by 8% in 2020 and, in 2022, electing Senate candidate J. D. Vance by 7% and reelecting Governor Mike DeWine by 25%. Additionally, the partisan environment may be worse for Brown in 2024 than in 2018. In 2018, Democrats generally overperformed across the country, owing in large part to the midterm backlash against President Trump. In 2024, however, Trump will be back on the ballot, likely boosting Republican turnout (especially in Ohio). Assuming history repeats and Trump carries Ohio in 2024, Brown will have to win hundreds of thousands of crossover Trump votes to be reelected. Brown has proven resilient in the past, but this will likely be one of the toughest elections of his career.

Next, Ohio's Supreme Court may be significantly reconstituted. The Ohio Supreme Court has, for years, been a moderating influence on Ohio politics, particularly

on the issue of partisan gerrymandering. This was, in part, due to the fact that Ohio Supreme Court elections were nonpartisan, allowing Democratic candidates to overperform and control nearly half of the bench.

That changed in 2021, when Republicans passed a law requiring judicial candidates to run with party labels. The effects were shown in the 2022 election, where two incumbent Republicans won by double-digit margins and the Republicans easily carried the election for Chief Justice over well-known incumbent Democratic Associate Justice Jennifer Brunner.

The 2024 election could have more sweeping results. Along with an election for Republican Joe Deters' seat (Lisa Forbes is his Democratic challenger), two incumbent Democratic justices—Melody Stewart and Michael Donnelly (both CSU Law alumni)—are up for reelection. Strapped with a party label for the first time, their seats are precarious at best. If one or both of these candidates lose reelection, the Ohio Supreme Court could become much more partisan and less likely to push back on the actions of the state house.

That brings us to the General Assembly, control of which hangs on a single vote.

In a sense, Ohio state politics over the last several years have broken into a de facto three party system. This dates back at least to the election of Ohio House Speaker Larry Householder in 2019, and continued with the election of Speaker Jason Stephens in 2023. Both Republican Speakers were elected with the support of Democrats, whose support they won by promising to rein in the party's right wing. By splitting off a moderate faction from the Republican supermajority, this paradigm has curbed the ambitions of far-right Republican leaders and slowed the progress of conservative legislation (or, perhaps more accurately, slowed the progress of legislation in general—2023 was the least productive year for

the Ohio legislature since 1955).

Stephens' election was particularly divisive. A majority of the Republican caucus supported Derek Merrin, the conservative lead sponsor of the 2019 Heartbeat Bill. Stephens, however, defeated Merrin by enlisting the support of the entire Democratic caucus and 22 Republicans. This was extremely controversial. The Ohio Republican Party censured Stephens' voters, whom Merrin voters started calling the "Blue 22." Stephens supporters responded by calling their critics the "CryBaby Caucus."

The result of the Stephens "coup," as his opponents called it, was to chart a more moderate course, particularly with regards to issues around labor and education. Derek Merrin wanted to pursue Right to Work and vastly expand school vouchers, both of which are strongly opposed by Ohio unions and Democrats. Stephens promised to, among other things, make sure they did not happen.

There are limits to this "moderation," of course. On some issues, particularly social issues like trans rights and abortion, Ohio has often veered to the right. Unlike opposing Right to Work and maintaining public schools, these issues lack powerful supporters like teachers unions, making it easier for the Republican leadership to make peace with the right wing by "letting the baby have its bottle."

Under Householder, Ohio passed the Heartbeat Bill which was, at the time, one of the most draconian anti-abortion laws in the country. Under Stephens, Ohio passed House Bill 68, severely restricting access to gender affirming care for trans youth. Stephens also signed off on the disastrous misadventure of Issue 1 in August, 2023, which would have raised the threshold for constitutional ballot initiatives to 60% (with the goal of blocking the Reproductive Freedom Amendment set to be on the November ballot). Stephens, who initially opposed the proposal and promised Democrats he

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would block it, ultimately voted to place it on the ballot. The issue, of course, failed decisively.

Nevertheless, in other key areas, Ohio's politics have remained fairly moderate. Plans to slash public school funding, implement Right to Work, end the income tax, and other right-wing initiatives have been dead on arrival in Stephens' State House.

However, even these mild compromises may soon be scrapped. Stephens will face a new challenger in 2025. This time, it will not be Merrin, who is leaving the State House to run for Congress (with Donald Trump's endorsement, he won the 2024 primary election to challenge Democratic Representative Marcy Kaptur). Instead, Stephens will be challenged by State Senate President Matt Huffman, who is term-limited out of the Senate and moving to the State House in 2025.

Huffman has assumed Merrin's place as the tribune of the right, lambasting Stephens for betraying his party and capitulating to the Democrats. He supports ending the state income tax, vastly expanding school vouchers, re-litigating the August 2023 election, and fighting implementation of the voter-backed Reproductive Freedom Amendment and legalization of marijuana.

The 2024 primary unfolded as a well-reported proxy battle between Stephens and Huffman. Eleven of the "Blue 22" Stephens supporters were up for reelection, and several of them were challenged by Huffman-endorsed candidates. The Koch brothers-founded conservative dark money group Americans For Prosperity also got involved, spending millions to back challengers to the Stephens candidates

and send out attack mailers calling Stephens supporters puppets of Joe Biden and the Democratic Party.

Because Stephens won the Speakership on a margin of 54-45, he could afford to lose four supporters. On primary night, he lost exactly four: Sara Carruthers, Brett Hilyer, Gail Pavliga, and Jon Cross.

Some in the media have declared victory for Stephens. News 5 Cleveland confidently reported "Ohio House Speaker Jason Stephens and allies mostly victorious in primary election, likely keeping gavel."

However, I would argue that the results are far more ambiguous. To keep his post, Stephens will also need to have the same number of Democratic votes that he had in 2023. If any Democrats lose reelection in 2024 (which, given partisan trends in Ohio, is certainly possible), then Stephens will dip below the number of votes he needs. There is also no guarantee that he will keep every one of his Republican supporters. Faced with well-funded primary challengers, censure from the Ohio GOP, and pressure from powerful groups like Americans For Prosperity, any one of his supporters could decide that it's no longer worth it to buck the party line. Or, for that matter, any one of the Democratic representatives could decide it's not worth voting for a Republican who broke his promise and put Issue 1 on the ballot.

After the 2024 primaries, the direction of Ohio politics is deeply uncertain. Whether the state continues to chart a moderate course on issues like labor, public education, taxation, and democracy, or veers rightward on more than social issues, depends on a single vote in the State House.

Division of Unity, or Unity of Division? Analyzing the US Supreme Court's Ruling on Colorado's Removal of Donald Trump from the Ballot

Zackory Langin
Gavel Contributor

The Supreme Court unanimously decided states cannot unilaterally expel presidential candidates from their ballots. However, the unanimity ended there.

In September 2023, Colorado voters sued to have former President Trump removed from the ballot in the 2024 presidential election. A five-day trial in state court resulted in a finding that Mr. Trump engaged in "insurrection" as defined in Section 3 of the 14th Amendment; the district court did not authorize removal, though, as the Presidency is not an "office." On appeal, however, the Colorado Supreme Court determined the Presidency is an "office" under the 14th Amendment and, thus, Mr. Trump was to be removed from the ballot based on the lower court's insurrection finding.

The Supreme Court of the United States then granted certiorari to Mr. Trump's appeal to answer: "Did the Colorado Supreme Court err in ordering President Trump excluded from the 2024 presidential primary ballot?"

The majority focused its analysis on the principles of federalism. The Court held states are constitutionally barred from impacting federal elections in this manner, frequently citing in both oral argument and the opinion a case law school scholars are familiar with, *Term Limits, Inc. v. Thornton*. Specifically, the Court felt "granting the States that authority would invert the Fourteenth Amendment's rebalancing of federal and state power."

The majority then expanded its decision to describe how Congress could, under Section 5, enforce Section 3, which caused Justices Barrett, Sotomayor, Kagan, and Jackson to concur only in the

judgment. Per the majority, Congress has to legislate to either remedy or prevent the acts of insurrection and rebellion prohibited under Section 3, which it did by enacting the criminal statute proscribing insurrection and rebellion.

Justice Barrett, in her separate concurrence, tried to focus on the Court's unity and downplay the remaining division on the issue. However, she would have preferred the Court show restraint by only answering the question before it (authority of the states) rather than exploring questions about federal legislation and remedies.

The concurring opinion authored by Justice Sotomayor and joined by Justices Kagan and Jackson expanded on Justice Barrett's idea of judicial restraint. The concurring justices agreed it was inappropriate for Colorado to remove Mr. Trump from the ballot, but would go no

further as they believed the majority incorrectly decided how Section 3 was to be enforced, rather than answering the question before them of who can enforce Section 3.

In sum, the decision creates more questions than answers. Is the President an "officer" under the 14th Amendment? Given that the Court could have resolved the dispute on this point, the Court's silence indicates that it likely is.

More importantly, what due process is required prior to removal? In this case, there was a trial to answer whether an insurrection oc-

curred. Is this sufficient? Can Congress simply pass a law declaring an individual an "insurrectionist" in violation of Section 3, like statutes recognizing treaties? Or does a prosecution have to be brought under the criminal insurrection statute Congress enacted through its powers under Section 5? It would seem a prosecution or impeachment proceedings under the insurrection criminal statute would have to result in a conviction before someone could be barred from the Presidency. Alas, that is a question to be litigated before the Supreme Court another day.



Former President Trump; retrieved from newsweek.com

Starbucks Graciously Agrees to Stop Breaking Law

Josh Bazzoli
Gavel Contributor

"But who'll defend the workers who cannot organize when the bosses send their lackeys out to cheat us?"
- *"There is Power in a Union," Billy Bragg*

On February 27, Starbucks made an astonishing announcement. The multibillion-dollar corporation made tentative commitments to sit down with Starbucks workers to collectively bargain a master contract between it and the thousands of workers employed across hundreds of unionized stores. This constitutes a remarkable about-face for Starbucks and its approach to unionized employees.

Unionized employees are represented by Starbucks Workers United (SWU), an affiliate of the larger Service Employees International Union (SEIU). The union



Starbucks in San Jose Costa Rica; taken by Susannah Schroeder

drive began in 2021 at a single Starbucks location in Buffalo, New York. As of March 2024, SWU has won union elections at 400 Starbucks locations employing over 10,000 workers across 48 states. Despite the sustained union drive, SWU has yet to negotiate a union contract, or collective bargaining agreement, at any of the locations it represents.

The lack of a contract is not for lack of trying, however. Rather than begin good faith negotiations with unionized

workers, Starbucks has instead made it its mission to stonewall any attempt by SWU to secure a contract for its members. The company has fired or cut the hours of pro-union workers, closed unionized locations, and pursued frivolous litigation against SWU for using the Starbucks logo in its union materials. In perhaps the most glaring example of anti-union retaliation, Starbucks extended certain benefits such as credit card tipping to nonunion stores

while explicitly excluding unionized locations.

These actions are obvious retaliation against pro-union employees and locations under the National Labor Relations Act (NLRA). The NLRA is the cornerstone of federal labor law. It governs the process by which workers can seek to start or join a union and, ideally, gives workers a free and fair chance to decide whether to unionize. Conduct such as firing, taking adverse employment actions against, or closing the workplaces of employees based on their attitude towards unions or working conditions in general is an Unfair Labor Practice (ULP) under the NLRA and blatantly illegal.

Starbucks knows it has been committing a slew of ULPs against its unionized employees. It knows it will likely lose SWU's challenges to such behavior purely on the merits. The point was

never to win these disputes. The point was to tie up SWU in expensive litigation and drag out the negotiation process in the hopes that workers would abandon the union from either exhaustion or disillusionment. Such a bad faith strategy could only be sustained by the frankly paltry remedies offered by the NLRA against companies that commit ULPs.

But the siren is suddenly singing a different tune. Starbucks has now committed to negotiating a master contract with all of its unionized stores. As a sign of good faith, the company has even gratuitously extended the same benefits it had selectively granted nonunion stores, including credit card tipping. The company claims it wants such an agreement by the end of the year.

Why the change? There is no single confirmed cause. See **STARBUCKS** page 8

The Most Interesting Moves from NFL Teams Free Agency



NFL Teams

Reece Barnett
Gavel Contributor

On March 11, at 12pm, the legal tampering period for NFL free agency started. And immediately, the league went wild. By the end of the day on Monday, so many moves have been made it was almost impossible to keep up. Since there was a lot of information coming at once, here are the most interesting moves made in NFL team in free agency. Please note that not all the teams made headlines.

- Arizona Cardinals:**
- QB Deshaun Watson (via trade with Falcons)
- Atlanta Falcons (NFL investigating for tampering):**
- QB Kirk Cousins: Four-years \$180 million deal (\$100 million guaranteed. 35 years old coming off a torn Achilles)
 - WR Darnell Mooney: Three-years \$39 million deal
- Baltimore Ravens:**
- RB Derrick Henry: Two-years \$16 million deal
- Buffalo Bills:**
- QB Mitch Trubisky: Two-years \$5.25 million (as a backup for Josh Allen)
 - WR Curtis Samuel: Three-years \$24 million
- Chicago Bears:**
- RB D'Andre Swift:

- Three-years \$24 million
 - WR Keenan Allen (via trade with Chargers)
 - Traded starting QB Justin Fields to the Steelers
- Cincinnati Bengals:**
- Franchise tagged Tee Higgins: 1 year \$21.8 million (Higgins asked for trade after)
 - RB Zack Moss: Two-years \$8 million
 - S Vonn Bell: 1 year \$6 million
 - Released (then traded RB Joe Mixon
- Cleveland Browns:**
- WR Jerry Judey (Via trade with Broncos, extended to three-years \$58 million)
 - QB Jameis Winston: 1 year, \$4 million
 - QB: Tyler Huntley
- Denver Broncos:**
- Released QB Russell Wilson
- Green Bay Packers:**
- RB Josh Jacobs: Four-years, \$48 million
 - Released RB Aaron Jones
- Houston Texans:**
- RB Joe Mixon (Trade from Bengals)
- Indianapolis Colts:**
- QB Joe Flacco: 1 year \$8.7 million
 - WR: Michael Pittman Jr.: three-years \$70 million
- Jacksonville Jaguars**
- QB Mac Jones (via trade from Patriots)

- Kansas City Chiefs:**
- DL: Chris Jones: Five-years \$160 million)
 - P Matt Araiza (league minimum)
 - WR: Marquise "Hollywood" Brown: 1-year \$7 million
- Las Vegas Raiders:**
- QB: Gardner Minshew: Two-years \$25 million
 - TE: Harrison Bryant: 1 year \$2.9 million
 - Released QB Jimmy G
- Los Angeles Rams:**
- QB Jimmy G: 1 year (has to sit out the first two games of the season for performance enhancing drug violation, but he is the backup so the Rams should be okay for those two games)
 - Retired: Aaron Donald
- Minnesota Vikings:**
- QB Sam Darnold: 1 year \$10 million
 - RB Aaron Jones: 1 year \$7 million
- New England Patriots:**
- Traded QB Mac Jones
 - QB Jacoby Brissett: 1 year \$8 million
- New Orleans Saints:**
- DE Chase Young: 1 year \$13 million (has current neck injury so contract is only \$5.01 million guaranteed)
- New York Giants:**
- RB Devin Singletary: 1 year
 - QB Drew Lock: 1 year

- \$5 million
- New York Jets**
- QB Tyrod Taylor: Two-years \$18 million
- Philadelphia Eagles (NFL Investigating for tampering):**
- RB Saquon Barkley: Three-years \$37.75 million (\$26 million guaranteed, coming from NFL team)
 - QB Kenny Pickett (via trade with the Steelers)
 - Retired: Jason Kelce (pre-free agency but important to note)
- Pittsburgh Steelers:**
- QB Russel Wilson: 1 year
 - QB Justin Fields (via trade with Bears)
 - Cleaned out QB room before making the deals above
- San Francisco 49ers:**
- QB Joshua Dobb: 1 year \$2.75 million
- Seattle Seahawks:**

- QB Sam Howell (via trade with Commanders)
- Tampa Bay Buccaneers:**
- QB Baker Mayfield: Three-years \$115 million (\$50 million guaranteed)
 - WR Mike Evans: Two-years \$52 million
- Tennessee Titans**
- RB Tony Pollard: Three-years \$36 million
 - QB Mason Rudolph: 1-year \$2.87 million
 - WR Calvin Ridley: Four-Years \$92 million (\$50 million guaranteed)
- Washington Commanders**
- QB Marcus Mariota: 1-year \$6 million
 - RB Austin Ekeler: Two-years \$11.43 million
- With all these moves the NFL is going to look vastly different next season. Right now, however, the teams are focused on the draft, which will take place April 25-27 in Detroit.

STARBUCKS
From page 7

Starbucks did hire Laxman Narasimhan as CEO in 2023 to replace the outgoing CEO and failed presidential candidate Howard Schultz. Schultz had been a fierce opponent to the union drive. A majority of Starbucks shareholders also voted to independently audit the company's \$240 million legal bill for fighting the union to date. All this internal intrigue coincides with record public approval for unions in general and high-profile public sympathy for SWU in particular.

It's anybody's guess whether the promised master agreement will actually materialize. This could be just another (more sophisticated) anti-union tactic to derail the union train. But there is rea-

son for optimism. Starbucks' cynical strategies have thus far failed to stop the unionization of additional stores. The extension of credit card tipping to union stores removes a huge disincentive for nonunion stores to join the campaign. The news is still fresh and its implications still uncertain, but for the first time in a long time a collective bargaining agreement is at least a possibility.

"But they'll pinch themselves and squeal, and they'll know it's for real the hour that the ship comes in. And they'll raise their hands sayin', 'We'll meet all your demands.' But we'll the shout from the bow, 'Your days are numbered.'"

- *"When the Ship Comes In," Bob Dylan*

Write for TheClevelandStateGavel.org

Susannah Schroeder
Editor in Chief

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