2-2005

2005 Vol. 53 No. 4

Cleveland-Marshall College of Law

Conservative/Liberal Face-off

Enemy combatants or prisoners of war? Gavel columnists explore the debate in light of the Geneva Convention and Sept. 11.

CAREER, PAGE 5

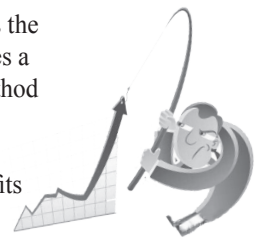
Local Venues Sing the Blues

Is Cleveland's recent addition of a House of Blues really the high note that was expected? The Gavel investigates the squeeze HOB is imposing on local concert venues.

LAW, PAGE 2

Big Change, Bigger Results

C-M has a strong desire to increase its reputation across the country. The Gavel examines a potentially controversial method that will surely upset many current and past students but would reap substantial benefits to C-M in the future.



OPINION, PAGE 6

THE GAVEL

VOLUME 53, ISSUE 4 FEBRUARY 2005

THE STUDENT NEWSPAPER AT CLEVELAND-MARSHALL COLLEGE OF LAW

Health insurance proves beneficial to students

By Tom Szendrey
STAFF WRITER

Students at CSU have a new provider of student health insurance. Although most students have probably not heard of the Chickering Group, it is an independent subsidiary of Aetna, and, according to a number of students, it is an improvement over the last program.

According to several students, there were some problems with the last student health insurance provider paying claims. Some students were affected because hospital and doctor bills did not get paid. Other students paid medical bills and were not reimbursed.

Before the contract expired, a committee explored other options and sought bids for an alternate provider of student health insurance.

The 2004-05 school year is the first in a three-year exclusive contract that CSU has with Chickering. According to Eileen Guttman,

See **INSURANCE**, page 3

C-M selects Mearns as new dean

By Christopher Friedenberg
STAFF WRITER

After a nationwide search for Cleveland-Marshall College of Law's new dean, the Cleveland State University Board of Trustees selected local attorney Geoffrey S. Mearns.

Mearns served nine years with the United States Department of Justice before commencing private practice in Cleveland in 1998. As a partner in two of Cleveland's major law firms, Thomson Hine and currently Baker and Hostetler, Mearns specialized in business crimes and corporate investigations.

Contacted last fall by the College of Law Dean Search Committee, Mearns recognized that he was "a non-traditional candidate," but he was reassured that the search committee was seriously considering candidates outside the usual academic circle.

Prof. Phyllis Crocker, vice-chair of the committee, said, "The CSU president and provost told us to cast a wide net—not to limit ourselves to the traditional academy and law schools."

After nearly 200 nominations and applications were received, the committee selected approximately 15 candidates for an initial interview.

After the interview, seven finalists were then to be chosen by the committee to return to the school to meet with the faculty and students.

Jayne Geneva, who represented administrative staff on the committee, said, "The initial face-to-face interviews were telling. Some [candidates] we thought were going to be stars who looked great on paper were awful in the interview."

CSU Provost Chin Y. Kuo restricted the number of finalists to five, but two finalists withdrew from consideration and the remaining two candidates, Mearns and Stephen Bender, were invited to the campus. Bender subsequently withdrew from consideration.

"Mearns was definitely top five material; unfortunately we had already sent out five invitations when the Provost declared the new limit," said Geneva.

Mearns, the last of the finalists to visit the campus, impressed faculty, staff and students as he responded to questions during his two-day visit.

Commenting on his visit, Mearns said, "I was not trying to make a case about why I should be dean of C-M. I presented who I am. I did not want to be the dean if I didn't have the support of the people. I'm excited by the opportunity, but I'm happy in private practice and I wouldn't want to give it up for something I'm not good at."

"Externally, I think the relationships that I've developed over my law career would be beneficial to the students and the institution," said Mearns.

Mearns also said, "I want to expand placement opportunities for students and improve the marketing and development of C-M locally and nationally. Dean Steinglass has done an excellent job building the foundations."

"Internally, I recognize I don't have the same kind of managerial experience for law school manage-

See **MEARNS**. page 2

Top of the Class in Technology

The Jan. 2005 issue of *The National Jurist* magazine ranked Cleveland-Marshall 21st among accredited law schools in its use and support of technology.

C-M beat out schools such as UCLA, John Marshall, Stanford University and Pennsylvania State in the *The National Jurist* technology honor roll.

The major factors taken into account for the report on technology were the availability of a wireless network, whether the law students are required to purchase laptops, whether the school permits exams to be taken on computers and the existence of a technological courtroom.

No flaw in striking the keys

By Kathleen Locke
STAFF WRITER

For the Fall 2004 semester, the option of taking final exams on laptop computers added a new twist for all professors and students who are used to using blue books and scantrons for exams.

In all, 20 different courses offered students the option of using laptops for a total amount of 320 examinations taken on laptops. This was the first year the option of using laptops was available to all professors, who could decide whether or not to offer the option to their students.

For the past three years, this option had only been available on a trial basis to select classes of 25 students or less. Because of the success of the first three years, the faculty voted to expand the option to all professors this past fall, said Michael Slinger, director of the law library and associate dean.

Students who wanted to use laptops for this year's exams could use their own or borrow one from the school.

Students then downloaded the software, Exam4 onto their laptops prior to the exam.

One initial concern was whether enough laptops would be available to students who did not own a laptop but wished to take their exam on a laptop. A shortage of laptops ended up not being an issue.

"We were able to give a laptop to every student that asked for one," said Slinger. "We didn't come close to running out."

Currently, the school has 20 laptops that are available for students. If there ends up being a problem and all requests cannot be filled, a lottery would take place, and students would be notified ahead of time as to whether a laptop will be available for them to use, said David Genzen, assistant director for academic technology.

Another concern prior to, and even during, the exams was the protection of each student's exam.

"There was some added stress that something would happen and the exam might get lost, even though the program auto saves," said Inga Laurent, 3L.

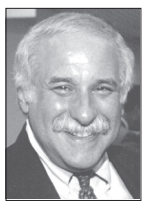
Exam4 is designed to automatically save every 10 seconds with a fail-safe back-up performed every five minutes.

See **LAPTOPS**. page 4

Celebrating C-M's proud history

By Steven H. Steinglass

Black History Month at C-M is more than just a ceremonial calendar event. C-M was one of the first law schools in Ohio to admit African American students, and we are proud of the men and women who, often at great personal sacrifice, took advantage of the opportunity extended to them and through tenacity and courage transformed the profession and the cultural landscape of our country. I would like to share some of their stories with you, for their stories belong not just to the triumphant history of Ohio's black citizens, but also to the black citizens of America.



The Dean's Column

The first African American graduate we have been able to identify was a William H. Clifford '02. Clifford served two terms in the Ohio General Assembly, graduated from law school at the age of 40 and accepted a position in the War Department.

Thomas Wallace Fleming '06, co-founded the *Cleveland Journal,* a publication dedicated to promoting black businesses.

The years following the Great War were significant ones for African Americans: many emigrated from the agricultural culture of the south to seek higher paying work in the mills and factories of the north; others returned from honorable service on the battlefields. Two such veterans were Charles V. Carr '26, general counsel for the Future Outlook League, an early organization active in finding jobs for black citizens, and Lawrence O. Payne '22, Cleveland's first African American assistant prosecutor.

Perhaps the most visible African American lawyer of the 30s, 40s and 50s is Norman Selby Minor '27, for whom the local African American Bar Association is named. Minor single-handedly destroyed the racist stereotypes that had limited black attorneys' access to the city's courtrooms. Many will attest that his greatest gift to the bar was his willingness to mentor the next generation of black attorneys.

Our post-WWI African American alumni also carved a place for themselves in region's history books. Louise Johnson Pridgeon '22, was Cleveland's first black woman attorney.

Two other early women graduates, Hazel Mountain Walker '19 and Jane Edna Hunter '25, never practiced law but used their law degrees to the benefit of their race. Walker was the city's first African American woman school principal. Hunter, an extraordinary social services pioneer, founded the Working Girls' Association, later renamed the Phyllis Wheatley Association.

During the 50s, 60s and 70s C-M's African American alumni emerged as powerful forces in the struggles for civil and educational rights. The late Mayor of Cleveland, Carl B. Stokes '53 was the first black mayor of a major American city; his brother, the Honorable Louis Stokes '56 was the state's first African American U.S. Congressman, an office he held and distinguished for 30 years.

The Hon. Lillian W. Burke '51 was Ohio's first black woman judge, and the Hon. Jean Murrell Capers '45 was the first African American woman elected to the Cleveland City Council.

The Hon. George Forbes '62, now President of the local NAACP, was the first black President of Cleveland City Council; the Hon. Leo Jackson '50 became the first black judge on the Eighth District Court of Appeals in 1970. Two decades later the Hon. Patricia A. Blackmon '75, became the first African American woman elected to that court, and in 1980 President Jimmy Carter appointed the Hon. George W. White '55, to the United States District Court for the Northern District of Ohio. Today, Judge White, who retired from the bench, is Director of the Cleveland Browns Foundation.

Stanley Tolliver '51 was a leader in the struggle to secure the rights of Cleveland school children to equal educational opportunity, and, together with C. Lyonel Jones '63, director of the Legal Aid Society of Cleveland, and the late Charles W. Fleming '55, represented many of the black citizens falsely accused of criminal acts during the race riots of the late1960s.

The man who made history as the first black City Council President George Forbes is founding partner of the Cleveland firm of Forbes Fields & Associates.

Each of these men and women laid claim to rights and entitlements that should have come their way without struggle, yet in securing them, they also claimed a part of America for our present generation of black students.

House of Blues plays solo

Will the Cleveland HOB put long-standing local music venues in the red?

By Ryan Harrell
STAFF WRITER

Last fall, House of Blues (HOB) Cleveland opened to great fanfare in its downtown location on Euclid Avenue. Boasting a 1,200-seat capacity concert hall with a sound system formerly used by the Rolling Stones.

This new venue promised to bring high-profile acts to Cleveland. Some local venue owners, however, believe Cleveland's music scene was vibrant enough before this new addition, and that HOB may ultimately leave area concertgoers with less choices for entertainment.

Cindy Barber and Mark Leddy own the Beachland Ballroom, located in Collinwood, a few miles east of downtown. In addition to hosting underground music groups with large followings, such as the Black Keys or the Yeah Yeah Yeahs, the Beachland also gives small local acts a proving ground on which to build followings.

Certain areas of Collinwood are derelict, but the Beachland's existence has led to a minor revitalization of this area, giving area businesses increased pedestrian traffic on nights of shows. This phenomenon is not unique to the Beachland, as several other Cleveland music venues exist as activity hubs in otherwise forgotten areas. The Agora and the Odeon, located in Midtown and the East Flats, respectively, bring some vitality to areas other businesses have abandoned.

Barber said that all of these venues have suffered a loss of bookings since HOB opened. According to Barber, at least two bands that previously played at the Beachland, Hot Tuna and the Drive By Truckers, have now booked at HOB. "There have been some shows that we have not even been asked to bid on since [HOB] opened," said Barber.

The threat for local venues is not just that larger acts will be playing elsewhere, but that the clubs could go out of business altogether, said Barber. One of the drawbacks inherent with promoting new music is the risk that not every night will be profitable. The reason that a venue like the Beachland can offer the variety of music it does is that it can count on a certain number of marquee acts that will pack the house and provide healthy bar sales, said Barber.

Acts drawing smaller crowds are in effect subsidized by these larger acts. According to Barber, if HOB is able to book a critical number of these acts, this balance could be upset, and smaller acts could lose local outlets to promote themselves.

Barber also worries that HOB does not share the commitment to the city that natively owned venues do. Specifically, she noted that the Atlanta HOB left town after becoming unprofitable after only two years. Regardless of civic concerns and the plight of the small business owners, Cleveland concertgoers may have one final incentive to support these smaller venues: ticket price.

While locally owned venues rarely host shows fetching over $25, HOB tickets are routinely in the $30-35 range, before Ticketmaster charges are added.

HOB did not respond to repeated inquiries, but its website is clear that it does not operate through franchises, thus ruling out any stake of local ownership.

MEARNS: Atpyical candidate claims top spot

Continued from page 1--

ment. My approach is two-fold. C-M has a strong complement of associate deans, administrators and assistants. I will start by relying on their expertise. Secondly, there is a participatory process. The faculty has a tradition of self-governance, as do the students," said Mearns.

Nick DeSantis, 3L, the student representative on the committee, formed a core group of students who interviewed the finalists. "There was more due diligence in that three week process than I've ever seen in my life," said DeSantis.

The student subcommittee had a core of five permanent members and five rotating members from a pool of approximately 20 students. The subcommittee interviewed the candidates in closed and open half-hour sessions.

According to DeSantis, students "thoroughly grilled" Mearns, particularly about his ties with Baker and Hostetler. DeSantis said, "Some students think that Baker and Hostetler overlooks C-M graduates in favor of more prestigious law schools."

"Students were forward thinking about the dean selection process. The ability of a dean to fundraise was important to students, finding money for scholarships and improving the quality of life," said DeSantis.

Attached to the final report sent by the committee to the offices of the president and provost, the student subcommittee, in a separate report, recommended Joel Friedman of Tulane University to be the next dean.

"Joel Friedman was favored by a lot of students, but I'm happy with the process and I'm happy with the final result. Mearns is an impressive, worthy choice. I'm sure he'll do a great job," said DeSantis.

"The entire faculty voted whom to recommend to the provost. American Bar Association rules require that the faculty be substantially involved in the selection of a law school dean," said Crocker.

"What the faculty cared most about in a new dean," said Crocker, "was finding somebody committed to our vision of moving the law school forward, in improving on its national reputation, [being] enthusiastic about the law school and committed to the plans we have in place to make out law school academically stronger and more diverse."

"What the provost asked for were the names of at least two unranked candidates by January from which the President [Michael Schwartz] could make a recommendation to the university board of trustees," Crocker said. "All the groups, faculty, students and staff, contributed evaluation forms which were appended to the report."

According to Geneva, "The provost first asked for three names, then when the report was nearly finished, the provost said he wanted only two names. The three names were Joel Friedman, Mearns and Candace Zierdt."

"The two names considered by the president and provost were Friedman and Mearns," said William Shorrock, vice provost for academic affairs and faculty relations. Why was Mearns chosen as the next dean of the law school over Joel Friedman? The evaluation forms, according to an unidentified source in the president's office, may have been a significant consideration. "The 'community reaction forms' that came with the report were three inches thick, and they were carefully read and tabulated," the source said.

"Some of my friends in the legal community have expressed some envy about my new job," Mearns said. "I tell them, there are always opportunities if you're willing to take chances and a cut in pay."

Accreditation drives attendance policy

By Jamie Cole Kerlee
STAFF WRITER

The American Bar Association publishes "Standards and Rules of Procedure for Approval of Law Schools." The standards set forth in the 2004-2005 manual are the guidelines that each law school must adhere to in order to be accredited by the ABA.

Standard 304(d) states, "A law school shall require regular and punctual class attendance." For accreditation, a law school is required to demonstrate that they have adopted and enforce attendance policies. However, the ABA does not issue guidelines for specific course attendance policies or penalties for students that have missed a substantial amount of class time.

The 2004-2005 C-M Student Handbook expressly states, "Students are required to attend classes with substantial regularity." If a student misses more than two weeks of their course in one semester, their attendance is considered unsatisfactory.

It is then at the discretion of the professor to determine the impending penalty. Possible penalties include (1) the final grade will be lowered; (2) the student may be administratively withdrawn from the course; or (3) the professor can give the student an "F."

When asked about C-M's attendance guidelines, Associate Dean Jean Lifter said the policy acts as a "default." The policy does allow professors the flexibility to draft their own individual course attendance policies. The C-M attendance policy sets the minimum standard that absences cannot exceed two weeks of the course along with the range of potential penalties. However, there are professors whose attendance policy varies from that of the general provision. So long as the professors provide reasonable notice of their rules to their students, these variations are permissible.

According to Prof. Kevin O'Neill, "I can't tell you the number of times I have talked to a student about his or her sub-par performance on my exam only to learn that they missed the classroom session during which I explained to the class exactly how to deal with the issue that they fumbled on the exam."

Prof. Stephen Gard puts his students on notice by setting down his rules the first day of the semester. Any student who is absent three times during the course of one semester will be automatically withdrawn. The nature of the absence is of no consequence to Gard, and he further informs his students that any appeals or complaints after the third absence are to be directed to Lifter.

Not all professors deviate from the general attendance provision. O'Neill allows for a maximum of four unexcused absences. If a student has five unexcused absences, that student is not permitted to sit for the final exam.

Regarding excused absences, O'Neill said, "I try to be very understanding of the individual needs and problems of my students when deciding whether to grant them."

Neither the ABA nor the C-M Student Handbook has provisions regarding methods for taking attendance. There are no guidelines requiring professors to have sign-in sheets or another means of student accountability. Most professors use a seating chart to identify students during classroom discussions and brief presentations. If a student is called upon and he or she is absent, the professor will then make note of the absence.

Prof. Kathleen Engel does employ the use of a sign-in sheet. Engel's policy allows for a student to be absent four times during one semester. Beyond that, Engel said "I reserve the right to lower the student's grade or administratively withdraw the student from the course."

The general attendance policy at the University of Toledo College of Law is "regular and punctual class attendance," according to Beth Eisler, the associate dean for academic affairs and professor of Law at UTLAW.

Attendance at UTLAW is regulated by students signing the class rosters for each class. Students cannot miss more than two and one-half weeks of class during one semester. In contrast to C-M's general policy, UTLAW students are allowed to miss a greater number of classes.

Moreover, the penalty is administrative withdrawal from the class. However, there are no distinctions between excused and unexcused absences. Eisler said, "All absences are counted."

The University of Akron School of Law also contains the ABA language within the attendance policy set forth in their student handbook. "In accordance with the policies of the school of law and the American Bar Association, regular and punctual class attendance is necessary to satisfy…credit hour requirements."

INSURANCE: CSU signs exclusive student insurance contract

Continued from page 1--

RNCNP, coordinator of student health insurance, it is standard for contracts of student health insurance to be entered into with only one provider. The reason, said Guttman, is so the students can pay the cheapest possible price.

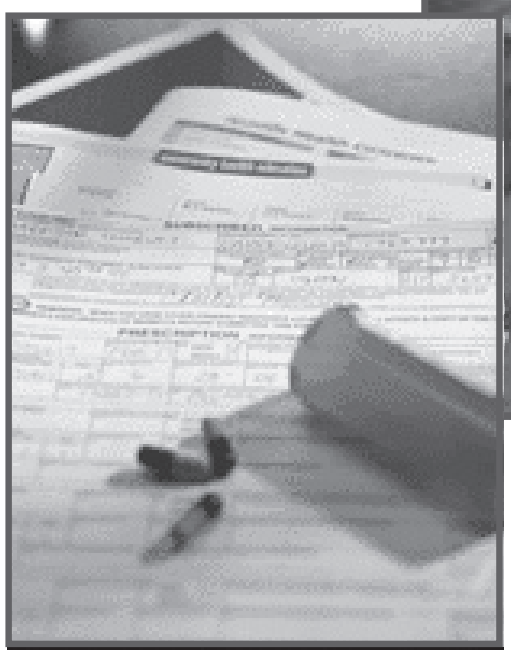
It will cost a law student $834 for a calendar year of coverage for the 2004-05 school year. Although some students feel this is expensive, Guttman believes it is worth the cost. According to Guttman, "If you make one trip to the emergency room, it will probably pay for itself."

Joy Roller, 1L, believes the program is worth it. "It is not as good as the insurance I used to have before starting law school, but it is cheaper than any other insurance I could find, and it means I'm covered," said Roller.

Marisol Cordero-Goodman, 3L, has a different opinion. Due to a change in the rules about deadlines when insurance had to be purchased, Goodman was unable to purchase insurance in the fall and was therefore excluded from purchasing insurance for the second semester. In the past, coverage could be purchased at any date.

The importance of being covered is another benefit of the program, said Guttman. If a student becomes seriously ill, a future insurance plan cannot exclude that student's condition as a pre-existing condition, said Guttman. Although it is rare, Guttman explained that in the past, students have come down with conditions from cancer to high blood pressure.

According to Matt Thomas, 2L, the student health insurance program is an improvement over not having any insurance at all, but it is not as comprehensive as a policy that he had from an employer prior to law school. Thomas said, although expensive, the student health insurance program is cheaper than it would have been for him to buy medical insurance on his own.



Guttman said the university is attempting to address students' concerns about the need to pay the entire fee when a student signs up for health insurance.

Currently, CSU is awaiting legal advice as to whether students will be able sign up via Campusnet, similar to the university's parking pass program. The goal is to incorporate the fee into any tuition payment plan a student may sign up for.

Regardless of whether a student has insurance, all CSU students have access to the student health center. Guttman stressed that the health center is available for all students enrolled at CSU, not just those students who purchase insurance through Chickering. The health center is staffed by a physician and certified nurse practitioners. The health center does not charge a fee to see a physician and charges a minimal fee for some laboratory testing and medications.

The reason why it is beneficial for CSU to contract with only one insurance provider is so the students can pay the cheapest possible price. If a student makes one trip to the emergency room, the policy will probably pay for itself.

Networking is an answer to finding a job

By Karin Mika
LEGAL WRITING PROFESSOR

Q: Is it necessary to work as a law clerk while in law school in order to get a job after law school?

A: I've kind of changed my tune on this a little bit in recent years given the amount of former students who have asked me whether I've "heard of any openings anywhere."

Legal Writing

These are graduates who chose not to work as clerks during school and who have now passed the bar.

It seems as though no employer is willing to take a chance on them. These weren't poor students either, but good, hard-working students who either worked outside the law or who concentrated more on extracurricular activities while in law school.

Given the current economic climate, the name of the game is professional "contacts," "networking" and looking for avenues of employment early on while in law school.

Currently, most high G.P.A. students land a position based on the fall interview program.

Another level of students will secure positions in offices where they work as clerks during law school, or perhaps secure positions in other offices through people they met while working in the first law office. Still another group of students will secure employment by way of personal situations – current employers, or perhaps relatives who work in the field.

Those who are not part of any of these groups wind up in a "no man's land." They wind up passing the bar, and thus are overqualified to be research clerks, but under-qualified in terms of experience and what they would bring to the table in a law firm.

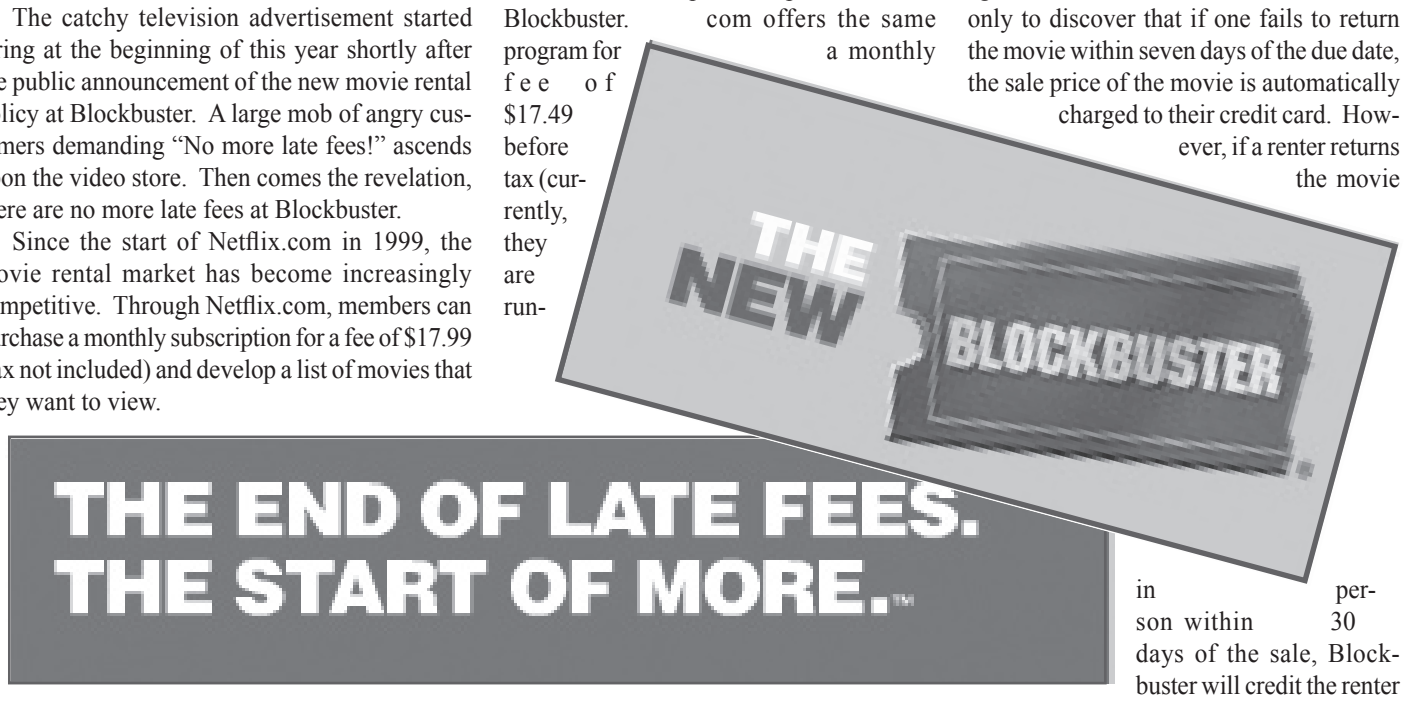
Thus, although I advocate not allowing work to overtake the school experience, I have to be realistic and suggest that after the first year, students should attempt to attain employment that will provide a future benefit.

Busting the no late fees myth

By Jamie Cole Kerlee
STAFF WRITER

The catchy television advertisement started airing at the beginning of this year shortly after the public announcement of the new movie rental policy at Blockbuster. A large mob of angry customers demanding "No more late fees!" ascends upon the video store. Then comes the revelation, there are no more late fees at Blockbuster.

Since the start of Netflix.com in 1999, the movie rental market has become increasingly competitive. Through Netflix.com, members can purchase a monthly subscription for a fee of $17.99 (tax not included) and develop a list of movies that they want to view.



Throughout the course of the month, they can rent as many movies as they want, with up to three at one time and a shipping turn around of one to three business days. There are no late fees. In order to view another movie, the renter need only return the movie(s) in their possession using the prepaid envelop that comes with the rented movie.

The movie rental market has responded to the change in market conditions by creating programs similar to that of Netflix.com. Blockbuster now has an online program comparable to that of Netflix.com. The program is exactly the same with the exception of a price variation. Blockbuster.com offers the same program for a monthly fee of $17.49 before tax (currently, they are running a special through 2006 where the fees are only $14.99 per month).

For those who do not rent movies on a regular basis paying a monthly fee to rent one or two movies is not economical. Going to the movie store and picking up a movie for a weekend is often the more economical approach. For $3.79, one can rent a movie from Blockbuster. And now, there are no more late fees!

The rumor is true, late fees are a thing of the past. But like any intelligent law student, one might read the fine print of the agreement entered with Blockbuster video only to discover that if one fails to return the movie within seven days of the due date, the sale price of the movie is automatically charged to their credit card. However, if a renter returns the movie in person within 30 days of the sale, Blockbuster will credit the renter for the sale price and instead charge a restocking fee plus applicable taxes.

For some, the news of "No more late fees" came as a relief because it meant renting a movie and not being penalized if it took until the following weekend to return it.

The penalties have simply been re-categorized as restocking fees, or for some who are really absent-minded or busy, their rental may become an outright sale.

LAPTOPS

Continued from page 1--

"Normally, when you work with a lot of people, there is a high probability of user error," Slinger said. "This worked well enough that there was no user error and no one lost anything."

One problem that did arise involved the difference between the amount of space that the software allowed for questions to be answered in and the space within the bluebooks. Exam4 can be adjusted to limit answers within a certain word count, and confusion about the word count equivalence to the blue book lines had some professors adjusting word counts in the middle of the exams, Laurent said.

Prof. Veronica Dougherty, who offered one of her classes the option of using laptops, acknowledged the confusion about equivalent page length but added that it was easier to read the exams that had been typed.

One additional concern involved preserving the anonymity of grading, which could become a problem in small classes where only a few students elect to use a laptop or handwrite their exams.

I would not offer the option of using laptops with smaller classes because of anonymity unless everyone wanted to use them, Dougherty said.

"If it gets to a point where everyone who wants to can do it on a laptop, then it seems like it should be fine," Dougherty added.

Students also acknowledged several positive aspects of using laptops to take the exams.

"I would never take another handwritten exam again," said Peter Kirner, 2L. "I feel like it was easier to take the exam because I could type instead of write."

The software was user-friendly and easy to use, said Kirner. Kirner added that typing was more physically comfortable and easier with the cut and paste options that the software offers.

"Generally, the faculty and technology staff feel like it was very successful," said Assistant Dean Jean Lifter. "A few mechanical things still need to be worked out."

The number of laptop exams is expected to grow as professors and students become more familiar with the software, said Genzen. "I would expect next time there will be more courses included because it usually takes one of two times using the program to get in the swing and make sure everyone is comfortable."

"From Russia with Law"

Combine the study of law and travel.

By participating in the Summer Law Institute of St. Petersburg, students can learn about international law and spend time in Russia's oldest and most prestigious university.

Prof. Mark Sundahl said he strongly recommends that students attend the St. Petersburg Program. "Knowledge of international law is essential for the modern attorney," said Sundahl.

Sundahl said that the St. Petersburg Program provides an "excellent and affordable opportunity to study a variety of topics in international law ranging from human rights and the workings of the United Nations to issues in multinational business transactions."

The one-month program takes place in the historic city of St. Petersburg, Peter the Great's famous "Window on the West."

Students enrolled in the program attend classes from 9:00 a.m. to 1:00 p.m. four days a week. Thus, there is still ample time to enjoy the many sights of St. Petersburg. The program also includes excursions to surrounding towns and palaces as well as to local sites of interest such as the Hermitage Museum.

The program fee is $3500, which includes tuition, housing, class materials and sightseeing. Financial aid is available. Discounted airfare is also available by way of an International Student Identification Card, which can be purchased for $22. The card application is available at the Center for International Services, located in Rm. 302 of the University Center.

Students interested in the program can contact Prof. Sundahl or Holli Goodman for more information.

St. Petersburg Program
June 4-July 2, 2005

Deadline for signing up is Mar. 7.

Enemy combatant or POW...does it matter?

Question: Should the detainees at Guantanamo Bay be guaranteed a trial and assistance of counsel according to Article 105 of the Geneva Convention, or should the United States be allowed to detain these individuals indefinitely because they are considered "enemy combatants"?

Conservative rebuttal...

By Benjamin Zober
GAVEL COLUMNIST

The detainees at Gauntanamo Bay must receive the full protections of due process. If we truly value the guarantees of justice, we must seek to employ it everywhere, even in places where virtue flounders in a sea of extremism. We are vilified for our values and our actions. No matter what we do, short of establishing a fundamentalist state, we will never placate people who seek to turn the world into a cemetery. Yet, if we maintain a level of decorum that provides even out most vicious enemies with the benefits of law that we afford ourselves, our response becomes beyond reproach.

We should not invent designations to beat the system. The Geneva Convention makes no mention of enemy combatants. The detainees fall under the category of prisoners of war, whether we call it a war or not. As prisoners of war, they are entitled to certain protections including a trial and assistance of counsel. Calling people enemy combatants is just a shortcut to brutality.

Dehumanizing the enemy makes them easier to kill, some would say, even fun. We didn't fight Germans, Russians or the Vietnamese; we invented catchy and derogatory names for them, which helped our soldiers fight harder and sleep better. History has demonstrated time and again that when enemies are denigrated, they bear the brunt of aggression and ignorance. When we break the rules to serve our own ends, we create a deadly precedent, trading justice for vengeance and equity for evil. When we forget that our enemies are people, despite their actions and ideologies, we treat them like monsters. Enemy combatant is just another four-letter word.

There can be no mistake that people who perpetrate and participate in heinous crimes against humanity must be brought to justice. However, that key word, justice, must remain intact.

In their own way, the perpetrators of 9/11 were convinced they were serving justice. We have a different sense of justice, one that we must maintain not only because we claim to be spreading it around the world, but also because it is right.

The founding fathers created a system that thrived on a loyal opposition. We have enjoyed over 200 years of peaceful transfers of power. Designating dissenters as below the law creates an atmosphere of fear and anxiety. If we can mistreat our enemies abroad, what prevents us from doing the same at home? Who are the enemies at home? If people are dying for our right to be free, it means nothing if we aren't free.

If we have any faith in our own system, we should allow the process to work. If these people are truly guilty, then justice will be served. This is what we need to teach to our newly constructed democracies. The least we can do for them is lead by example.

Liberal rebuttal...

By Steve Latkovic
GAVEL COLUMNIST

As to the specific question, no, the detainees have no legal right to anything under the Geneva Convention. It's simply a matter of definitions. Read Article 4, which defines a "prisoner of war." The people at Gauntanamo simply do not fit into that definition and therefore do not have any rights, including the right to a trial or legal counsel.

So then the question becomes what do they get? Good question. As a quick review, the Supreme Court has held they get review, or rather, the courts have jurisdiction to hear their cases. This was based on statutory law Congress enacted, not constitutional law. Recently, two district courts have split over whether the trials being conducted by the Armed Forces are legal. We'll see what happens.

First, I don't agree with unlimited detention without a hearing. I do, however, feel that "unlimited" can be broadly construed. I frankly have no problem with someone being held there for five years or more without a hearing. How long is too long? I don't know, but I'll tell you when we get there. I can guarantee it won't be before Al Qaeda is not a serious threat. I'll be honest too, I'm not sure what an "enemy combatant" is, but I really don't care. It's a nice name for people who try to kill our troops but aren't really an army or militia. I could come up with a better name, but it probably couldn't be printed due to decency restrictions.

Second, whatever these people are entitled to, I know it's certainly not U.S. constitutional protections. As I said, the Supreme Court based their decision on statutory law, specifically a habeas challenge under 28 U.S.C. § 2241. There should be a minimum standard for them, I'll agree. We, as a society, should treat them decently, giving food, reasonably clean housing, etc. I've read repeatedly they are treated quite well there, given specific food for their Islamic diets, permitted to pray, etc. But remember – they are prisoners, so it's not going to be a hotel. Having a neutral observer would be fine as well, such as The Red Cross (though I question their neutral-ness these days).

Lastly, as to the Geneva Convention overall – why on God's earth would we maintain such a high standard for people who booby-trap dead bodies? It just defies logic. From a public relations view, I suppose US troops can't shoot first and ask later in the field, but from a "keep-my-butt-alive" view, it makes a whole lot of sense.

One last note: I was appalled by the torture at Abu Ghraib, but what does one expect from a society obsessed with sex and violence (yes, I'm talking about ours). There are few aspects of our society that aren't sex driven – from advertising to radio to television. But I suppose that's an argument for another day.

Conservative rebuttal...

Mr. Zober has not done his homework. Assuming detainees are covered under the Geneva Convention and are prisoners of war, he rants about "shortcuts to brutality" and "four letter words." I'm not sure what the third paragraph is even talking about. When did we not fight the Germans? What did we call them? Nazis? They were. Is this supposed to be some witty way to make a point? And point blank: terrorists *are* monsters, not people.

Detainees are not prisoners of war and thus have *no* rights under Geneva. Suggesting we not distinguish the detainees as enemy combatants is wrong and misguided. They are neither prisoners of war (and thus not soldiers) nor mere criminals. It is a situation unique in history. Perhaps we can argue over what exactly to do with them, but to suggest Bush made up a name to get around the "law" is just ignorant.

I wonder if it makes a difference to Zober that the "people" he refers to do not adhere to Geneva by doing such wonderful things as booby-trapping dead bodies and decapitating innocent civilians?

Zober appears to share my desire to bring horrible people to justice. However, suggesting that these people are no different than the armed forces we have historically fought is, frankly, a little too liberal.

Liberal rebuttal...

Enemies seldom fit convenient labels. Yet, if definitions are imperative, refusing to define enemy combatant is hypocritical. Article 5 places all non-designated persons within the Convention. Twisting the law to justify abuse should be beneath us. Pretending our enemies are outside of the Convention does not justify abandoning morality.

Certain rights go beyond documents, be they inalienable, fundamental or human. We honor them because we believe in them, not because someone forces us. The 9/11 murderers believed they served justice despite conducting no trials, eliciting no testimony and heeding no law. Abandoning our justice system under any circumstances casts shadows of prejudice over liberty.

Delaying trials at will supplants the rule of law with the will of the mob. We can choose justice or vengeance: one proves morality, the other merely our might. Abuses occur not because of prurient interests but because we fail to value life. As long as our leaders classify enemies as less than human, we will never rise above the atrocities of retribution and hate.

We can play with the truth of who our enemies are or what threat they present. However, when we treat our enemies as ruthlessly as they did us, justice is lost.

SBA tackles exam policy

By Nick DeSantis
SBA PRESIDENT

In recent years, the SBA has advocated for a change in C–M's exam rescheduling policy. Last year, the faculty voted to allow a student to reschedule an exam if the student had three or more exams on two consecutive days. Although this action is a step in the right direction, C-M is among a minority of law schools in the state that requires its students to take more that one exam in a 24 hour period.

Nadine Ezzie, chairperson of SBA's Exam Policy Task Force, presented a report detailing the exam policies of all Ohio's law schools. In her report, she found that, of the nine Ohio law schools, six have adopted policies that would allow a student to reschedule an exam should the student have more than one exam on any calendar day or within any 24-hour period. Furthermore, the report found only one other Ohio law school, the University of Akron, which maintains a policy requiring a student to take more than one exam per day.

The task force's report, which was adopted by the SBA and submitted to the academic standard's committee, recommends that C-M adopt an exam policy that would allow its students to reschedule an exam should the student have more than one exam in any 24-hour period.

While the academic standards committee is considering the report, it is important that students express their support for the recommended revision. Students should not expect that the proposed policy changes are a given; the proposal potentially faces opposition largely due to faculty concerns centering on academic integrity of the exam taking process. Students in support of this policy change should urge the C-M faculty to adopt this measure.

Say goodnight to part-time program

By Jason Smith
CO-EDITOR-IN-CHIEF

As the old saying goes, it is time to either "put up or shut up." Although such a statement may seem a little harsh, it is extremely relevant and highly appropriate for administrators and faculty at C-M.

For the past year, we have been inundated with two core points of emphasis. These points have been stressed in the verbal medium, via classroom presentations by professors, and in the written medium, via columns, stories and quotes in distributed publications.

The Gavel
Editorial Opinion

The first message we have all heard is that the main goal for C-M's future is to gain better national recognition. This increased recognition includes: 1) gaining more respect in the legal world outside of Cleveland and 2) increasing C-M's standing in national law school rankings. Let's face it; although the *U.S. News* rankings may be deemed highly flawed, such rankings are *the* tool used by prospective law students in making initial choices about a law school's reputation.

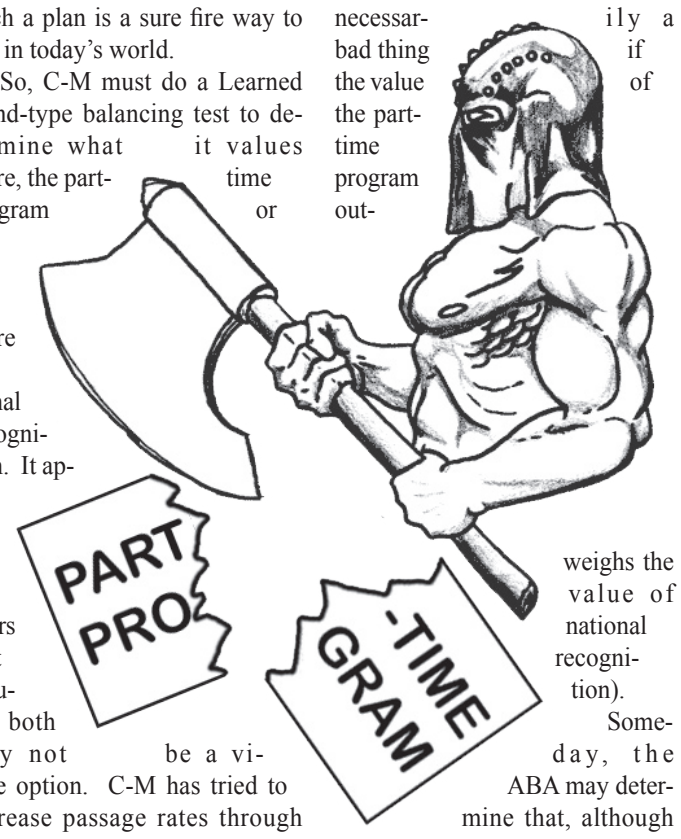
The other message that we have all heard, ad nauseam, is that part-time students are holding C-M down. While not put in such a blunt manner, simply reading between the message's lines yields such a harsh interpretation. Administrators guise this message in a more gentle voice, stating the part-time students are just as smart as full-time students, but pass the Bar Exam at a significantly lower rate than their full-time counterparts because they simply do not have enough time to study for this all important exam because of other time constraints.

So, the question remains: how are these two points of emphasis related? The answer is actually pretty simple. The easiest way to increase C-M's national reputation would be to eliminate the part-time program. This simple, yet surely controversial, step would drastically increase the bar passage rate which would, in turn, have a trickle down effect on other indicia of quality. A higher bar passage rate would surely result in higher quality candidates seeking admission to C-M. These effects would cause C-M to attain its goal of a better national reputation. While a Tier I ranking may be a lofty (and perhaps unattainable) goal, a Tier II ranking would seem to be easily attainable.

So, why isn't this elimination done? C-M would surely take serious heat from current students and (more importantly) part-time alumni if the program were cut. C-M graduates, and the institution as a whole, takee great pride that the law school has provided non-traditional students the chance to gain a valuable law degree.

However, times have changed. What worked in the past may not work in the present. In the not too distant past, passing the Bar Exam did not require a two-month, full-time study session. Many older attorneys gloat that they (and most of their colleagues) only took one week off to study for the bar and still easily passed. Such a plan is a sure fire way to fail in today's world.

So, C-M must do a Learned Hand-type balancing test to determine what it values more, the part-time program or more national recognition. It appears that valuing both may not be a viable option. C-M has tried to increase passage rates through other measures, including requiring additional writing classes (although oftentimes useless), offering voluntary Bar Exam prep courses (although attendance at which resembles a Cleveland Barons game) and reducing the number of admitted students (the so-called "smaller and stronger" plan). While such measures may slightly increase passage rates, it is likely C-M will continue to stay in the bottom third of law schools in the state of Ohio.



It is time for C-M to realize that it is fruitless to stress the need for more national recognition while, at the same time, stressing the importance of its part-time program. C-M's options are mutually exclusive; either get rid of the part-time program or be content with mediocrity (which isn't necessarily a bad thing if the value of the part-time program outweighs the value of national recognition).

Someday, the ABA may determine that, although the intention of part-time programs may be worthwhile, such programs are not in the best interest of developing competent lawyers. Until such a study is done and the ABA mandates the elimination of part-time programs, C-M is likely to choose the easy route and stick with the status quo. I guess it is easiest to have the best of both worlds; neither putting up nor shutting up (and continuing to solve nothing).

Name-change does not equal takeaway

When a student receives a scholarship upon admission to C-M, he or she receives an amount ranging from $2000 a year to full in-state tuition. As of 2004-05, these scholarships bear the names Dean, Barristers, Collegiate and Academic.

For students who receive one of these scholarships, upon renewal after the first year, the name of the award will change. However, the total amount of the award will not change. The name change is necessary for accounting purposes.

Law school scholarship money is one pool of funds maintained in numerous accounts – currently 44. The total amount of dollars in the accounts, as well as the actual number of accounts, change from year to year depending on numerous factors including the activity of the stock market, levels of contributions to the funds and the creation of new scholarships. Each account is used to distribute new and continuing scholarships.

So, for example, a first year student may be awarded a Collegiate Scholarship for $4,000 upon entering law school. If the student is eligible to renew the scholarship the following year, the $4,000 award will not be called a Collegiate Scholarship for this name is one of the names reserved for entering student scholarships. Instead, the renewed $4,000 scholarship will be awarded from one or more of the other scholarship accounts. Therefore the student's renewed $4,000 scholarship could be called the Law Fellows Scholarship for $4,000, or it could be called the Law Fellows Scholarship for $3,500 along with a $500 Ratner Scholarship. The total still equals $4,000. It is common practice to rename a student's scholarship for accounting purposes.

If a student receives a scholarship from an outside source, the student's loan eligibility will be reduced, but the outside scholarship will not reduce any scholarship amounts awarded through the law school.

By Catherine Buzanski, Financial Aid Director

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Media companies control consumers

By Josh Dolesh
GAVEL COLUMNIST

If you have not given much thought to your digital rights, it is time you woke up and realized that money hungry media corporations are attempting to send our children back into the dark age of technology. The trend towards restricting digital rights will have vast consequences on the dissemination of information to the poor, and in turn will increase the cultural and ideological gap between the rich and the poor. In our time, we will see a rift begin to develop between the media "haves" and the "have nots" that will signal the death of the media middle class. Those that can afford media will be informed about political issues and those that cannot will not be.

Lately, media companies have been using the copyright protection argument to assert an agenda that goes far beyond protecting their economic interests. Pro media lobbyists have used the issue of copyright infringement to overcorrect for losses caused by the file-sharing phenomenon at the expense of our rights. Why should you care? Because soon you will have to pay for everything you want to see or hear. The days of "owning" a piece of music or a movie are soon going to be a distant memory.

Ever wonder how the media outlets are going to enforce this agenda? Consider this scenario. On both cable and satellite digital feeds, small codes are embedded into the stream called broadcast flags. These flags tell a recording device such as a digital video recorder (known as DVR or TIVO) what it can and cannot do with the feed. For instance, a flag could tell the unit that the feed cannot be downloaded to a PC or copied to a DVD. Supposedly, this procedure allows media outlets to prevent piracy. The idea is that the watcher or listener would not be able to make digital copies of the feed (essentially exact copies).

The user, however, would still be able to make analog copies of the stream. A good analogy for us lay people is that a digital copy would be like having the DVD whereas an analog copy would be like having a crummy VCR copy or better yet, a copy of a copy.

This seems like a fair trade off. We had this trade off for years with cassette tapes. A dub tape always sounded worse than the original, and this fact prompted people to buy first generation tapes.

But you must remember that the media lobbyists are slicker than an oil spot on a Vaseline ice rink, and they are not satisfied with a fair trade off. Right now, almost all set top boxes and televisions are going digital. Very soon, the days of an analog output will be gone, but in the mean time, people can still copy analog outputs that have very good quality.

Since the digital feed and output is protected by the broadcast flag, the only chance for piracy is through the analog output on the back of a set top converter. So what have our extra slippery friends at the media done? They introduced a policy called "down rezzing." They told cable and satellite companies that they would not allow them to broadcast high definition digital shows unless the companies turned down the resolution on their analog outputs to prevent people from copying digital high definition content from the analog outputs.

Down rezzing is a double whammy because people who have a digital feed but an analog TV are forced to use the analog output on the cable or satellite to connect to their TV. As a result, the extra money that the consumer pays for the digital service and high def capability is all for naught because the analog output is severely down rezzed. For now, thankfully, the Federal Communications Commission (FCC) has placed limits on the amount of down rezzing that is legal.

But once analog equipment is out of the picture, we will have no choice but to succumb to the will of big media.

If this trend of digital rights restrictions continues, we will soon be left in the situation where people will be yearning for the good old days when we had things like VCRs and tape decks. It is already happening. Just try and find an old DVR that can ignore the broadcast flag, that can forward downloaded shows or that can even skip commercials. They are in high demand. Want to learn more? Logon to eff.org.

Exam review: a fruitless endeavor

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

It's mid-February, and I'm still trying to get over exams. It's like a cold, and I can't quite get rid of its lingering effects. The worst of it might be over, but I know it's only a matter of time until they're going to be coming up again.

1L
First year life
Part IV

Having now gone through the "exam review process" and discussed it with a number of people (including a few of them who were quite opinionated on the subject), I have a couple of questions / comments.

Why don't professors wait until after the exam review period to have their in-class reviews? Are they afraid that we'll forget our answers? Hate to break it, but I think that most of us forgot our answers as soon as we walk out of the exam. Yet virtually all of my classes went over the exam before we could review our answers, making it nearly impossible to bring up pertinent questions.

Why can't we take the exams out of the SSC? It's ridiculous to expect students to be able to have intelligent discussions about their exams without actually having a copy of it for reference.

Why don't professors put any comments on exams? Perhaps this is overly collegiate of me, but I really appreciate getting back exams that: 1) give some indication that the professor actually read them; and 2) give some type of constructive correction or indication as to what I could improve upon.

Needless to say, it was a *little* frustrating to receive a sum total of two words of "commentary" between my three exams, neither of them being remotely insightful. As one friend of mine commented, based upon professors' comments (and, in *his* view, upon the grades given), professors could just as easily have tossed the exams onto a set of stairs and assigned grades based upon where they landed.

Why wasn't my section allowed to type their exams? Ok, I'm whining here, but to my knowledge every section but mine was given this option. Personally, I type a LOT faster than I write, I have the world's worst handwriting, and I'm much more comfortable in front of a computer then hunched over a desk. More generally, it's much easier for us to edit our essays on a computer (saving us time and space) and you won't have to deal with cross-outs, words in the margins or bad handwriting.

What is the goal of law school? I know I've only had one semester here, but it seems that it's more about accreditation than education, i.e. it's about finding out what students have been able to teach themselves instead of teaching them what they don't know.

Maybe it's just me, but the process of reading cases and attempting to discern the legal rules buried within them (i.e. self-education) seems frustratingly inefficient, nebulous and haphazard compared to a plain statement of principles by someone who knows the subject.

Likewise, based upon the method in which exams were evaluated and reviewed, it seems as though the reason they are given is the assignment of grades and ranking of students, not to present the opportunity for students to learn from their mistakes and gain a better understanding of the law through insightful dialogue with their professors and each other.

I realize that the legal field is heavily based upon the process of self-education and the thought process is generally relativistic, but perhaps legal education, at least in the first year, mimics legal practice a little too closely in these regards.

Open Mike

3L sounds off on recent events

By Michael Luby
STAFF WRITER

I was watching the television the other day, or in more technical terms, "flipping the channels," when I came across a new MTV reality drama stockpiled with colorful teens ranting about their horrible lives. The show is titled "Sweet 16," a cute name for such an absolutely abominable distortion of reality. I do not think I had watched more than three minutes when the lead girl said something to the like of "I won't talk to my parents ever again unless I get a Range Rover for my birthday."

The sad thing is, since then, I have managed to catch a glimpse of two other episodes. Accordingly, two girls ranted that their "dads" would be handling the $100,000 party bill and another wished she'd be more popular after her party.

The only reality Sweet 16 portrays is that acting stuck-up, selfish and ignorant equals popularity. Thanks MTV.

Recently, Gov. Taft released his new budget for the state. Barely able to contain my excitement, I gave it the once-over and to my surprise, NO NEW FUNDS for higher education. As I try to laugh at the fact that I will never be subjected to education funding Ohio Style, it really just makes me sad. Taft preaches a big game … improve education and we improve the economy. When tuition skyrockets and students are left out to dry, however, it's no wonder C-town sits No. 1 atop America's poorest cities, Bob.

The other day 19ActionNews did a story on Roger Brown of *The Plain Dealer*. If you get a chance to read Brown's sports column, it falls just short of Jason Blair infamy. He lies, distorts and repeats stories simply to get a rise out of the city. My unconfirmed belief is that the PD condones it because people keep reading. Over the past year, I have emailed Brown and the PD more than several times only to get ignored. Hopefully, this time he'll be shown the door.

And finally, I want to share a story copied in substance directly from Reuters that made my day (no comment is needed).

This year, Harvard University hired a recent graduate as a full-time promoter and coordinator of social activities, apparently because many students at the school are too busy to relax. According to Associate Dean Judith Kidd, "(T)he kids work very, very hard here. And they worked very, very hard ... to get here. They arrived needing help having fun."

By contrast, two weeks later, a police raid in Durham, N.C. turned up 200 noisy Duke University students, many of them bikini-clad women, wrestling in a plastic pool of baby oil in the basement of a fraternity house, apparently inspired by a scene from the movie "Old School."