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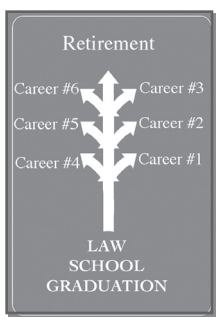
# 2005 Vol. 53 No. 5

Cleveland-Marshall College of Law

## Alum Takes Unique Path




So often students become consumed with finding a "legal" job. C-M alum, Carl Stern, '66, who used his law degree to embark upon two non-traditional legal jobs, discusses non-traditional law careers.

**CAREER, PAGE 4**

## A Society Starving for Justice

The Terri Schiavo debate has only just begun. The Gavel dives into the controversy that has consumed America and explains how Terri's death was an injustice in a civilized world.


**OPINION, PAGE 6**

## Status Quo or Privatization?

Social Security continues to be a hot-button topic for many Americans. Gavel columnists discuss whether Pres. Bush is Chicken Little or Merlin the Magician.


**OPINION, PAGE 9**


# THE GAVEL

VOLUME 53, ISSUE 5 APRIL 2005

THE STUDENT NEWSPAPER AT CLEVELAND-MARSHALL COLLEGE OF LAW


## Side Bar expanded, at least for now

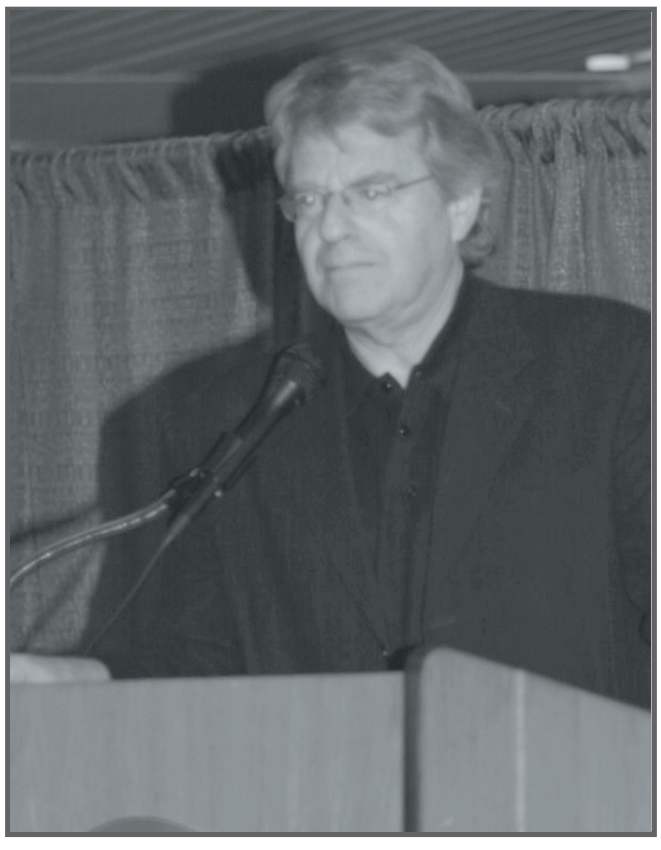
**By Chris Friedenberg**
STAFF WRITER

A student-led initiative has resulted in extended hours, expanded offerings and improved service at the Side Bar, the law school's snack bar operated by Aramark. But Cleveland State University and Aramark officials said that some of the improvements would only be temporary if revenues do not sustain the new offerings.

On Oct. 20, the Student Bar Association (SBA) passed a resolution to create a food service task force charged "to investigate and promote the wants and needs of C-M students with respect to the food services provided at the law building." The resolution also expressed the desire that the snack bar be open from 7:30 a.m. to 8 p.m.

Scott Kuboff, 1L, the Senator who authored of the resolution,

See **FOOD SERVICE**, page 5



Peter Kirner-Gavel

*"You think God is a Republican or Democrat? God isn't even American."*

Controversial talk-show host Jerry Springer visited C-M on April 29 to speak about politics in America. Springer focused his lecture on Ohio politics, especially regarding education.

It is speculated that Springer may someday run for governor of Ohio on the Democratic ticket. Prior to his talk-show, he held the office of Mayor of Cincinnati.

Turn to page 3 for more.

## C-M's 90 percent job placement: fact or fiction?

**By Ryan Harrell**
STAFF WRITER

Whether a law student is nearing the end of the third year or starting orientation, one question is paramount: What are the chances of employment for a recent Cleveland-Marshall College of Law graduate? According to C-M's Office of Career Planning, 90 percent of the class of 2004 found employment within nine months of graduation.

Numbers can be used to say almost anything, so a little illumination of the terminology and methodology of this survey is needed for a fuller understanding.

All law schools that conduct job placement surveys are required to adhere to standards set forth by the American Bar Association. C-M Director of Career Services, Jane Geneva, explained that because job placement rates have an impact of as much as 12 percent on overall rankings by publications such as *US News and World Report*, individual law schools have little flexibility in tabulating their own numbers.

In addition, because of the competitiveness among law schools, much of the raw data compiled by the office of career planning is not a matter of public record, said Geneva.

The term "employed" has specific meaning within this survey. While most students understand the term to mean full time employment as an attorney in a firm, agency or other legal organization, the term used in the survey has a broader meaning.

For instance, if a graduate is working in a law clerk position that could otherwise be filled by a student, that person is employed within the context of the survey. Likewise, if the graduate worked

See **SURVEY**. page 5


## Opportunity to vote on the U-Pass

On April 18, the student government association (the undergraduate governing body) will hold its general election. There are two major issues on the ballot.

The first issue is whether the university should continue the U-Pass program at a cost of $25 per student (this is a ten dollar increase from last year).

The second issue is whether the U-Pass should apply to all full-time and part-time students (graduate and undergraduate). Law students will be able to vote on this issue on April 18-20 in the business school or the UC.

Information courtesy of Nick DeSantis

## Teaching ethics, not the MPRE

**By Michael Luby**
STAFF WRITER

According to the National Conference of Bar Examiners ("NCBEX"), responsible for the administration of the Multi-state Professional Responsibility Exam ("MPRE"), "Students who have taken and received a two or three credit law school survey course in professional responsibility should be reasonably well prepared to take the MPRE."

John Orlando, 3L, disagrees that taking a professional responsibility course prepares students for the MPRE. Orlando said his legal profession course inadequately prepared him for the MPRE.

Prof. Stephen Lazarus, said he, along with most professors, do not approach the course with the intention to teach the MPRE, but rather to teach professional responsibility. Lazarus said that many students today have become obsessed with the Bar Exam, and to a lesser extent the MPRE, often indicating that they would much rather just learn the rules, and in essence, the test. Lazarus said he believes he owes a duty to train students to be professionals, including the methodology of approaching a real-life legal problem, not merely to recite the subject matter of any specific course.

Prof. Lloyd Snyder agreed, stating that the format of the MPRE seems to make sense but each state accedes to its own specific ethics rules. Snyder said it is difficult to identify which rules to teach and it is better to help students understand the process by which to understand the answers.

Greg Mussman, 3L, said it is important to teach legal ethics in general but because the MPRE is required to practice law, there should be some emphasis on the test as well.

Both Snyder and Lazarus utilize essay questions on exams, but Lazarus also uses multiple-choice questions with as many as seven possible answer choices. Lazarus believes this method helps to give students a feel for the MPRE exam and it forces students to logically deduce the answer.

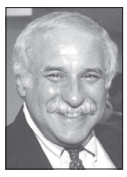
Lazarus said the political climate of the Bar Exam and the MPRE was much easier 20 years ago. Today, a practice-oriented classroom is necessary to prepare students for the real world, said Lazarus. Many professors across the country stress the learning behind the test and not the test itself because that is the essence of law school, said Lazarus.

THE GAVEL
Law
April 2005

# Part-time program is here full-time

**By Steven H. Steinglass**

C-M's part-time program is the oldest in the state. Its durability rests on the reputation of five generations of distinguished lawyers, judges, business persons and public servants throughout the country who owe their success to the hours that remained after a full-day's work or to the hours they pried from their daytime schedules to spend in C-M's classrooms and library. And its durability rests on its flexibility: the opportunity to study part-time by day or part-time in the evening or to combine the two programs.



The Dean's Column

Part-time law students are admitted under the same academic standards as full-time students, and we expect of them the same discipline and dedication that we expect of our full-time students. So it is gratifying that, despite the multiple pressures on their time, most often they excel in their coursework. In fact, though it is surely difficult for students working full time to participate in our clinics, externships, Moot Court Program, *Law Review* or the *Journal of Law and Health,* several do just that.

Moreover, part-time students bring special gifts to the student culture of C-M and to legal education in general. Many are older, many have already earned post-graduate degrees and many already have established themselves in such demanding careers as teaching, medicine and engineering. Many are parents; a few are grandparents. Often they have already learned the value of discipline and hard work. They have mastered the art of juggling many responsibilities and fulfilling competing obligations, and they have a heightened sense of the seriousness of learning their new profession that makes them especially diligent and especially good role models.

In recent years, our part-time students have had greater problems passing the bar. The difficulties they must overcome are not in ability or in commitment. The difficulties are lifestyle challenges: the challenges of what in essence becomes the burden of holding down two demanding jobs at once: the studying job and the wage-earning job or the studying job and the child-raising job. Recognizing this, last year the faculty approved a bar-passage course and assigned Assistant Dean Gary Williams to develop the materials and teach the course. The ABA now allows C-M to offer academic credit for the course.

In 1998, faculty, students, staff and alumni drafted an ambitious strategic plan that charted the path toward an academically stronger law school and an enlarged national presence. Maintaining the part-time program was an essential component of the first plan. We have now begun the process of envisioning the next five years; we remain committed to the part-time program, to the flexibility of access it offers and to the outstanding students it attracts and educates. As always, we expect the best.

# Faculty honors students' best interests

**By Jamie Cole Kerlee**
STAFF WRITER

Over the past couple of years, the Academic Standards Committee ("ASC"), chaired by Prof. Stephen Werber, has been actively working to modify C-M's academic regulations. The ASC is comprised of four faculty members and two students. With the strong push for changes and the successful results of the ASC's efforts, it appears as if a vast majority of the C-M student body is unaware of the changes and how those changes affect them and their law school.

Werber explained that there has been a breakdown in communication between all of the parties involved in this expansive modification process.

The committee is not responsible for reporting the amended changes to the students. Such reporting is the role of the administration. The administration does make available hard copies of student handbooks as well as posts the amended regulations on the C-M website.

To some degree, students have a responsibility to make themselves aware of their governing regulations, said Werber. Whether or not someone should put out a direct email regarding the relevant changes, it is clear that the majority of students do not know about the changes that have been implemented.

A recent and significant change that directly impacts students is found under Regulation 3.5: Examination Scheduling. More than two years ago, students were, at times, scheduled to take an exam in the morning, followed by an evening exam and potentially an exam the following day.


The strain created on these students due to such an exam schedule has been alleviated by the recent amendment to the policy following an amendment put in last year.

Last year, an amendment to the policy allowed a student to reschedule an exam if the student was scheduled to take three or more exams in a two-day period. The recent amendment takes last year's change one-step further.

After researching various law school exam policies, Nadine Ezzie, chairperson of the SBA's Exam Policy Task Force, proposed that students should be able to reschedule exams if two exams are scheduled within a 24-hour period. After looking at the SBA proposal, Werber proposed that students should not be expected to take two exams on the same day, a slight variation on the SBA's recommendation.

On their face, the two proposals seem similar, but their implications are very different.

Specifically, under the SBA proposal, a student who had a night exam followed by an exam the next morning would be able to reschedule an exam because the two exams fall within a 24-hour window. Under Werber's proposal to the faculty, a student with the above exam schedule would not be able to reschedule because the exams do not fall on the day calendar day.

Werber's proposal was adopted at the April 7 faculty meeting, going into effect immediately and including this spring 2005 semester.

Other changes that have been made without attracting the attention of the student body include the following regulations:

Incomplete grades: An extension can now be granted upon a showing of "good cause," as opposed to the previous "higher standard."

Credit for courses taken at other schools: Students can now take 30 credit hours outside C-M, instead of the previous 27.

Grade dispute procedures: Amendments added the requirement of meeting with the faculty member as the first step and expressly provides for students to be granted permission upon proper request to review grade sheets submitted before and after students were identified (confidentiality is maintained because all student names are deleted before a student may view the grade sheet).

Graduation honors: Honors are awarded based solely on grades earned at C-M, as opposed to the previous inclusion of transfer credits.

Dismissal/probation regulation: A student must have a GPA of 1.8 instead of the previous 1.75 in order to petition for a one semester probationary period.

According to Werber, these changes demonstrate two things. First, the changes demonstrate the faculty's ability to recognize and meet C-M students' needs. Second, the changes demonstrate that the ASC functions not only to benefit C-M's reputation, but also the students who have been negatively impacted by some of the previous standards.

# In the end, GOP reinforces culture of life

**By Kathleen Locke**
STAFF WRITER

The recent media spectacle known as the Terri Schiavo case has brought attention to the crossover of politics and the law. In the increasingly polarized and wide-spread reach of American politics, it is perhaps unrealistic to expect that these two areas can remain distinct from one another.

Led by House Majority Leader, Tom DeLay, Congress debated the Schiavo case by rejecting the opinions of medical experts and any findings of fact by the courts.

While Congress debated, one message that was continually repeated by Republicans was that "this was not a political issue," but one that involved the life of a woman who was being sentenced to die at the hands of the Florida judicial system.

Upon listening to the debates, the words "this is not a political issue" were reiterated. This was the same phrase President Bush alluded to when he referenced the "culture of life."

If we learned anything from the past election cycle, it should be that if politicians tell you that something is not a political issue, it should send red flags flying. The reality of modern politics is that the stakes are very high when it comes to important issues that draw widespread public attention and debate. So, should we criticize politicians for trying to intervene in highly publicized case with moral and social ramifications? Isn't this just politics as usual?

The courts, in adjudicating the Schiavo case, looked at all of the facts and issues that might be relevant to the case. The politicians, although they might have sympathize with her case, were no doubt looking for future political gains by making a statement on this particular case. When Bush said he was looking at "the culture of life," he was talking about the Schiavo case, but he was also referring to such hot-button issues as abortion, stem-cell research and euthanasia.

The Schiavo case, even if the legislature had no business involving itself in it, presented an opportunity for the Republicans to push their moral agenda, and no one could pass on a chance to back the Democrats into a corner. The Democrats were so scared to pick a side that most of them didn't even show up to vote.

Almost every public opinion poll, scientific or not, showed that the American public did not think that Congress had a right to intervene in the Schiavo case. However, there is something to be said for appeasing your constituents, and even if Republicans are being criticized now, next year is an election year, and these issues will be fresh in the minds of voters.

The Republicans might not have won the Schiavo case, but they succeeded in reinforcing their position on "the culture of life," which might prove to make them the biggest winners yet.

# Drug convictions extinguish federal aid

**By Eric Doeh**
MANAGING/NEWS EDITOR

Recently, C-M's Criminal Law Society hosted what was supposed to have been a proctored debate to discuss the decriminalization of marijuana and a little known provision in the Federal Higher Education Act (HEA) aimed at denying federal aid to anyone convicted of a drug offense. Decriminalization involves the removal of criminal penalties for possession of marijuana for personal use.

Decriminalization, as opposed to legalization, does not make possession of marijuana legal, rather, it makes possession a lesser offense subject only to minor fines.

The Criminal Law Society consists of students and recent graduates who are interested in both the prosecutorial and defense aspects of criminal law. The organization was able to schedule Terry Gilbert, a partner at Friedman & Gilbert, who spoke in favor of the decriminalization. But, the organization was unable to secure a speaker who opposed decriminalization.

According to Meghan Schane, 3L, and president of the criminal law society, "I e-mailed NIDA (National Institute on Drug Abuse), and they informed me that they would try to locate a speaker, but then I never heard back from them."

Schane contacted Ronald Bakeman of the U.S. Attorney's Office for the Northern District of Ohio, but he never returned her calls. Schane also tried contacting Judge Michael Corrigan of the Court of Appeals of Ohio Eighth Appellate District, along with Judge Daniel Gaul of the Cuyahoga County Court of Common Pleas, but was unsuccessful.

"I am still wondering why we had such a difficult time securing a speaker for the 'con' side of the debate. It seems if you are willing to charge people with the offense and make them face the consequences, you would be more than willing to back up the reasons why, when asked to do so," said Jessie Gordon, 3L, vice president of the criminal law society.

Schane even tried to contact some of C-M's faculty, but again, her efforts were to no avail. Prof. Adam Thurschwell was unavailable at the time of the event and preferred not to speak against reform, as did Prof. Kevin O'Neill.

When asked why he believed that the U.S. Attorney's Office decided not to participate in the debate, Gilbert said, "I have no idea why they wouldn't debate me, but I suppose it has to do with the hypocrisy of the anti-decriminalization position, which flies in the face of reason and good public policy."


Marijuana is presently decriminalized in 11 states: California, Colorado, Maine, Minnesota, Mississippi, Nebraska, Nevada, New York, North Carolina, Oregon and Ohio. In these states, cultivation and distribution remain criminal offenses.

"Legalizing marijuana would benefit society by eliminating the black market and allowing for tax revenues. Also, it would open the door for medical uses, which the federal government, despite study after study, refuses to recognize," said Gilbert.

According to a 2003 survey conducted by the National Survey on Drug Use and Health, between 95 to 100 million Americans admit to having tried marijuana.

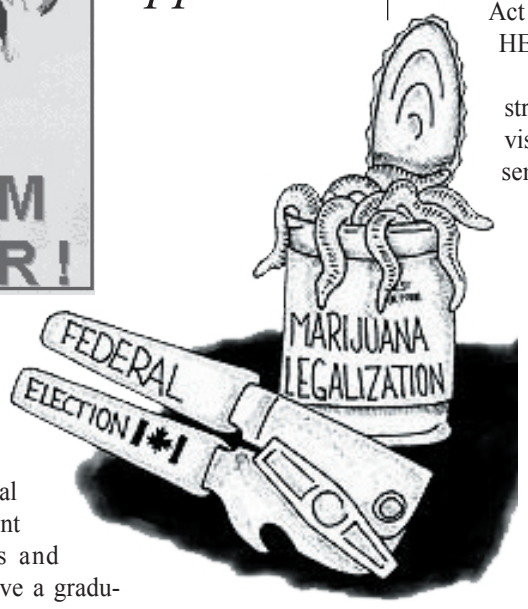
The Federal Bureau of Investigation said that there have been over seven million marijuana arrests since 1993.

Notably, 88 percent of all marijuana arrests are for possession, not manufacturing or distribution.

The HEA's drug provision, enacted in 1998, denies federal aid to anyone convicted of a state or federal drug offense.

"Possession offenses have an impact on federal student loans and involve a graduated disqualification depending on how many convictions," said Gilbert.

*HEA's drug provision denied financial aid to nearly 160,500 applicants.*




According to U.S. Education Department statistics, the HEA's drug provision has denied financial aid to approximately 160,500 applicants, but there is no way to measure how many others with drug convictions have not bothered to complete the financial aid form.

Catherine Buzanski, C-M's financial aid director, said that a student's ineligibility for financial aid depends on when the conviction was and if the student went through a rehabilitation program.

Under the HEA provision, a person convicted of a drug offense for the first time is denied financial aid for one year. The second offense bans the student from financial aid for two years and a third conviction carries an indefinite suspension of financial aid.

In fact, a worksheet is even provided in the Free Application for Federal Student Aid (FAFSA) to explain the timing of the conviction and rehabilitation program.

More than 200 organizations and 115 university and college student governments nationwide have called on Congress to repeal the HEA's drug provision.

Representative Barney Frank (D-Mass.), with the support of over 50 members of Congress, have proposed the Removing Impediments to Students' Education Act (RISE), that would repeal the HEA's drug law.

Some state legislators are also strong opponents of the drug provision. The Delaware General Assembly, along with that of Arizona and Rhode Island, have passed resolutions calling on the U.S. Congress to repeal the law.

Even Rep. Mark Souder (R-Ind.), the author of the HEA's drug law, conceded that it has had unintended consequences. "This provision was clearly meant to apply only to students convicted of drug crimes while receiving financial aid, not to applicants who may have had drug convictions in years past," said Souder.

According to Rhode Island State Representative Joseph Almeida, "The HEA anti-drug provision wrongfully denies equal opportunity for education to young people who have made mistakes in the past. We should let these kids move on with their lives instead of holding their mistakes against them by denying financial aid."

# Springer declares new political agenda for Democrats

**By Jason Smith**
CO-EDITOR-IN-CHIEF

On March 29, Jerry Springer, political commentator, notorious talk show host, radio personality, Northwestern University School of Law graduate and possible candidate for governor of Ohio, spoke at C-M.

The event, made possible through the efforts of the Democratic Law Organization (DLO) and Student Public Interest Law Organization (SPILO), drew an audience consisting not only of C-M students and faculty, but also a number of CSU undergraduates as well as active Democrats from the Cleveland area.

Maureen Foley, 2L, said that Springer's speech "did not express revolutionary views, but was maybe the kick in the pants that Democrats need."

Springer's speech was broad in topic, but focused in intensity. Because Springer did not have prepared notes, he was able to expand and modify topics that seemed to resonate with the crowd of over 200. Springer said, "The Republican Party has been hijacked by people [who] will not compromise."

According to Springer, the Christian right has been used and played. Springer said, "Bringing religion into politics demeans religion and destroys politics."

Springer referred to the Terri Schiavo legal and political debate as an "obscene, pandering circus" to outline hypocritical actions of the Republican Party. Springer said, the Republicans are "turning Terri Shiavo into a bumper sticker."

The bottom line of Springer's arguments was that even though the Republican Party includes a wide spectrum of people with various viewpoints, power has been consolidated among those with extremist viewpoints. The result of this, Springer said, is that most Republican voters do not actually have their interests represented. "Republicans today run [for election] on cultural issues, but govern on economic interests that benefit the rich and powerful," said Springer. "Morality is not up for a vote."

Springer took particular umbrage to the term "culture of life," which he believes is hypocritical and overly simplistic.

Citing Bush's oversight of more executions than any other contemporary governor, as well as Texas legislation signed by Bush that allows hospitals to make life-support decisions in certain circumstances and Tom DeLay's own decision to take his father off life support, Springer dismissed actions of Republican leadership as grandstanding and opportunistic.

Turning to Ohio politics, Springer noted that a significant number of Ohio's brightest university students do not stay in the state after graduation. In Springer's view, this is due to a public perception that Ohio does not embrace progress or tolerance.

Springer saw the culminating point of the perception with the passage of Ohio's anti-gay marriage constitutional amendment, but also noted legislation such as the pending Academic Bill of Rights Act, which he thinks sends a negative message to those in the academic community.

"If Ohio wants to go back to the 1950s, the only people who will still be here are those who were alive in the 1950s," said Springer.

Even though Springer's speech ran overtime, he was to able address questions and concerns from the audience. A man asked how the Democratic Party can redeem itself in the wake of its reduction to a minority party. Springer responded by saying that the party needs to be more vocal and that Democrats must take the opportunity to show that they do stand with the general interests of a majority of Americans.

When asked about his ideas for Ohio educational reforms, Springer subtly framed his answer in hypothetical form, while hinting at rumors that he will run for governor.

Springer distilled his view to three main proposals: a stronger commitment to early childhood education; smaller classroom sizes to increase the influence of a teacher in the life of a child; and free college tuition to math and science majors who will commit to teaching that subject in Ohio public schools for a certain period.

# Balancing effectiveness with efficiency

**By Karin Mika**
LEGAL WRITING PROFESSOR

*Q: What are your thoughts on computer v. book research? Do you suppose that books will become obsolete?*

A: I don't know if all legal research books will become obsolete, but certainly some of them will, either because of practicality or of the cost of producing them. Shepard's Citation is probably the number one example. As opposed to many of my colleagues, I do not subscribe to the belief that there is an inherent problem in becoming overly dependent on the computer to do research. If the computer is used correctly, it cuts most every research project down to less than 25 percent of the time that it normally takes. This could be a blessing for bosses and clients alike – and we're not talking Lexis and Westlaw here. Most of the information you get from those databases can be acquired from other sources on the Internet. It just takes more time to hunt them down.

Legal Writing

The key phrase, however, is "if the computer is used correctly." Too often legal research is confused with printing everything the student can find on a particular topic. If that's how computer research is conducted, I suspect the book research wouldn't be much better. It has to be understood that the computer is no more than a speed reader of all the books in the library, and if the student does not know what book he/she would be looking for, the student can't possibly know how accomplish the task on a computer.

I am often told that practicing attorneys complain that law students cannot do research without the computer. I think the real complaint is that law students tend not to know how to use the computer effectively and with economic efficiency. To that end, what is probably required is more instruction in computer research, not less instruction.

Students need to understand the utility of using the computer in some instances while appreciating the advantages of books in other matters. For example, it would be senseless, inordinately time-consuming and a possible act of legal malpractice to shepardize a case with the books when it can be done accurately in ten seconds on the computer. By the same token, it would be absurd (and costly) to spend hours reading a full title of the U.S. Code on the computer when the student can scan a book pulled from the shelf.

All of this knowledge takes exposure to both media, as individual sources used in tandem.

# Alum takes J.D. to the beat

*C-M alum takes advantage of the versatility inherent in a law degree*

*Three careers – all deeply involved in the law, but not lawyering.*
*Sure, it is more fun to preach than to practice. But it too is a life in the law. I hope I have done something useful along the way.*
***By Carl Stern '66***

I traveled a different road three times now – using my law license for some purpose other than practicing law. The fact is, there probably is no other professional training than law school that leads as well, and as often, to careers in other fields.

I began using my first baby-steps knowledge of the law even before I left C-M. As a reporter at Channel 3, I covered the Sam Sheppard retrial and a variety of other legal stories. I broadcast a three-times-a-week commentary called "Lawbeat" on the NBC radio network out of Cleveland.

It astonishes me to think I "knew" the law. How presumptuous – and mistaken. Forty years later, I continue to discover something new about the law every day, and I've just scratched the surface.

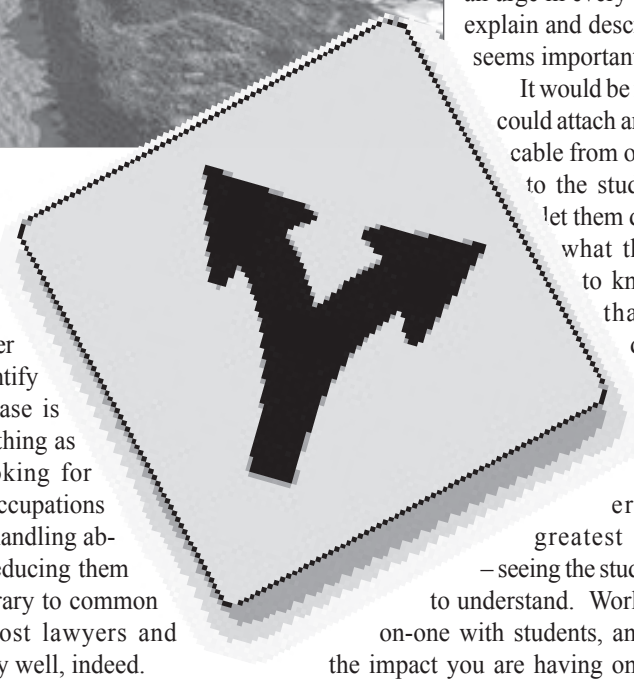
I'll tell you a secret -- the best part of learning the law is still to come. You will delight in *adding* to your knowledge of the law throughout the rest of your lives, no matter what you do. It will bring you unexpected pleasure.

I left Cleveland when NBC sent me to Washington to cover the U.S. Supreme Court and other legal doings. The American Bar Association said I was the first broadcast reporter to cover the legal beat. I did it for 26 years. Today, legal reporters and commentators are old hat in the news media – but it is a hat you might enjoy wearing. As I reached retirement at NBC, one of my colleagues was another C-M grad, the redoubtable Tim Russert.

I am hesitant to use the term "an intellectual feast," words that got Robert Bork in trouble, but covering the courts was certainly a sumptuous smorgasbord for anyone interested in the law. Among other things, I got to cover the trials of Jimmy Hoffa, Muhammad Ali, Patricia Hearst, John Hinckley, Oliver North and all the Watergate cases.

I traveled around the country inquiring into disputes that had reached the high courts. I even got to the International Court at the Hague for the U.S. suit against Iran for the 1979 takeover of the American Embassy in Tehran.

I will say flat out that I consider law a higher calling. Its requirements are more demanding. The standards and responsibilities are more exacting. But journalism is more fun. Numerous times, public figures I interviewed said they really wanted *my* job. One person who told me that was then New York Gov. Mario Cuomo.



Journalism and law draw upon the same aptitude. A lawyer struggling to identify the *issue* in a case is doing the same thing as a journalist looking for the *lead.* Both occupations require skill in handling abstractions and reducing them to words. Contrary to common perceptions, most lawyers and judges write very well, indeed.

When Bill Clinton was elected President, his transition team asked me to recommend steps to make the Justice Department and other federal agencies more open to the press. That resulted in career number two. I spent almost four years as Janet Reno's director of public affairs. I arrived four days before Waco!

There is much challenge – and much satisfaction – in speaking for a law enforcement agency and trying to explain in simple terms what the agency is doing. When I was in law school, I could never have contemplated using a legal education to explain the posse comitatus act to some editor in Tampa, but it is still a good way to justify the years you spent in law school.

Daily immersion in governmental decision making was an eye opener. Although I had covered the Justice Department for a quarter century from the sidelines, I never appreciated the complexities of actually doing the stuff. Few issues present a quick and easy answer. I was constantly reminded of the old Washington adage that if you want to be loved, get a dog. It is the hardest, most bruising – and most stimulating and fulfilling - work you can imagine. I urge all of you to devote at least a portion of your working life to being on the "inside."

I mentioned love. Why do we say we *love* the law? There's nothing lovable about it. But I came to realize at the Justice Department that even if the law doesn't work perfectly all the time, it represents our *aspirations,* none greater than when we represent *the people.* Surprisingly, I found being a government employee highly inspirational – an emotional high.

Career number three came as an offer too good to refuse – an academic chair at Washington, D.C.'s largest and most bustling university. I teach media law, ethics and a course on the courts and the Constitution – mainly to undergraduates but to students from all over George Washington University.

Teaching comes naturally to most law school graduates. I think there is an urge in every lawyer to explain and describe what seems important.

It would be nice if we could attach an external cable from our bodies to the students and let them download what they need to know. But that would deprive students and teachers of the greatest pleasure – seeing the student come to understand. Working one-on-one with students, and feeling the impact you are having on them, is far more satisfying them addressing 20 million people on television. Television is a one-way medium. You can't see that you are actually *reaching* your audience as you do it.

Three careers – all deeply involved in the law, but not lawyering. Sure, it is more fun to preach than to practice. But it too is a life in the law. I hope I have done something useful along the way.

I must acknowledge one disappointment. I spent much time writing an article for the C-M Law Review in the 1960s entitled, "The Compensability of Non-Traumatic Ulcer." In it, I argued that ulcer should be compensable under the workers' compensation laws, just as much as heart attacks or stroke. Recently, I checked. No court anywhere in the country has ever cited it for any proposition!

I wish you better luck.

# Up close and personal with Mearns

**By Kathleen Locke**
STAFF WRITER

Recently, I sat down with Geoffrey Mearns to discuss some of his goals and plans as the new dean.

***Q: What interested you about becoming dean?***

A: The opportunity blended several of my interests. I really enjoy being a lawyer and an advocate for people and enjoy mentoring young lawyers.

***Q: What do you feel that you will bring to the position?***

A: I think I presented myself as someone who could be an effective advocate or ambassador for the law school to carry the message about how good the law school is.

***Q: Can you elaborate on other responsibilities that you will have as dean?***

A: One responsibility is working with the various constituencies and identifying ways we can collectively enhance the educational experience at the law school.

I think I can bring a slightly different perspective by enhancing academic experiences with things like clinical programs, mentorship programs and practical training programs to ensure that the education of the students will provide the real skills that are necessary to be successful lawyers.

***Q: How do you view what your relationship with the students will be?***

A: I am hopeful that, by the second year, I will be teaching a class. I'll look for opportunities to interact with the students whether it is through existing student organizations or through speaker programs.

One of the things that will be important to me as dean, as well as a value that I want to ensure will exist with the other faculty members, is the informal mentoring that I believe all faculty members have a responsibility to do.

***Q: Will you continue to practice law?***

A: I don't think so, even though I really like being a lawyer. I will miss the challenge and the real sense of professional satisfaction that comes with representing someone in a very important case and doing it well, but there are so many things that I am going to have to be doing.

***Q: Is there anything that you see as a strength or weakness at the law school?***

A: One of the real challenges that we face is the bar passage rate. One of the strengths of the law school is that it has been historically a law school of opportunity. Some people have suggested that the steps that are necessary to improve the bar passage rate are in conflict with the tradition of the law school being one for opportunity. There is a tension there.

I think one of the real challenges is maintaining the tradition and mission of the law school while addressing the bar passage rate issue. Another strength is the depth of the faculty's teaching and other professional experience, and the student body, not just the quality of the students, but the diversity of their background and experiences.

***Q: Can you elaborate on what the tension is? Are you referring to the full-time and part-time programs?***

A: Yes, there is a tension in terms of the part-time program. Statistically, the bar passage rate among the part-time students has not been as high as among the full-time day students.

That isn't a reflection necessarily of the quality of the students that are in those two programs, but a reflection of a competing demand that are on the part-time students. That is one area where the tension lies.

***Q: What is the bar passage rate plan?***

A: One of the tactics is shrinking the class size. Another tactic is providing more scholarship funding to attract students who would, for economic reasons, go to other law schools, so enhancing the quality of the student body. Also, providing funding for students, many of whom have to work to support themselves while they are in law school, or who need to work between graduation and taking the bar.

One of the best predictors for bar passage is first-year grades, so if we can provide educational support early, our bar passage rate will increase.

***Q: What are your thoughts about the current grading curve?***

A: The idea of using the full range of grades is to make sure students are getting honest feedback as to how they are doing. If a student isn't getting honest grades or getting the message that they aren't doing well in law school, then it would be unfair if the first time they learn that they don't have the skills necessary to be a lawyer is when they fail the bar.

***Q: One of the biggest concerns is what happens to students whose grades don't look comparable to grades from students in other law schools, such as Case.***

A: My preliminary thought is to communicate with prospective employers that when they are looking at the transcript of a C-M student, if they see some B's, our B's are B's, they are not D's. This might be one aspect of the plan that we will have to evaluate as we go forward.

***Q: Do you have any memorable experiences from your days in law school?***

A: The most important memory I have is the relationship I had with a professor, which developed into a mentorship, and who I now consider a friend. One of the values I want to bring as the dean is how that kind of a relationship can deeply enrich the law school experience.

***Q: Any advice to students?***

A: One practical piece of advice is to not seek out classes just because you are interested in one particular subject. Look for opportunities to get a broad exposure to a variety of classes. My attitude when I was a law student was to choose classes less about the subject matter and more about who the professor was.

The second piece of advice is that being a law student and then being a lawyer is a full-time occupation and requires a commitment not only to learning but really embracing the core responsibility of what lawyers do, which is providing a service to your client.

## FOOD SERVICE: SBA task force serves-up unique options

Continued from page 1--

was appointed by SBA President Nick DeSantis, 3L, to chair the new task force. "The resolution was aspirational," said Kuboff.

In response to a general email, other students volunteered to join the food service task force. Those students included Brendan Healy, Nick DeSantis, Shawn DeHaven, Matthew Thomas and Brett Garson. A widely distributed survey created by DeHaven was circulated throughout the law school.

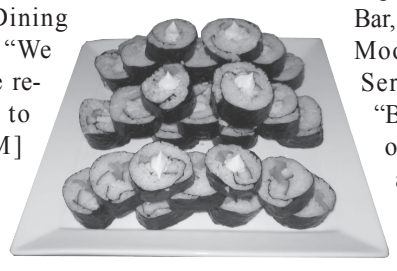
Over 98 percent of those who responded to the survey wanted "more variety in the products offered by the snack bar." Most of those who returned the survey said that they would purchase more products from the snack bar if there were a better selection.

Kuboff and other task force members met with the CSU Dining Service Advisory Committee composed of student, faculty and staff members, and discussed C-M students' concerns. "They were happy to work with us," said Kuboff.

Previously, the Side Bar's hours of operations were Monday to Thursday from 11 a.m. to 6 p.m. After the changes, the Side Bar is open Monday to Thursday from 8 a.m. to 6 p.m. and is also open on Friday from 8 a.m. to 1 p.m. Sushi, nacho lunch bowls and Campbell soups have been added to the menu, and frequent buyer card provides a free cup of coffee after the purchase of 14 cups. Dining Service is also promoting a customer service number for students to voice their comments, complaints or praise.

There is a chance that the changes advocated by the taskforce may be temporary and limited.

"We need to balance customer service, while at the same time run[ning] a profitable business," said Todd Underwood, manager of CSU Dining Services. "We want to be responsive to the [C-M] students' needs, but if the revenues aren't there, we won't be able to sustain the increased level of service."



According to Underwood, the Side Bar is "not meant as a full service venue. It's meant to be a place to get a quick bite and a cup of coffee." From a business standpoint, there are other complications. "The Side Bar is not on a main traffic pattern, and doesn't get a lot of carryover from other buildings, so we're limited by the size of our customer base," said Underwood.

There are also infrastructure issues. To put in an espresso machine comparable to the business school's Java Hut, Underwood estimates that the university would have to spend approximately $20,000 to upgrade the electrical outlets. "We know who our customers are, and we want your business." Underwood said.

Auxiliary Services advised Underwood to go ahead and try expanding the Side Bar, said Kathleen A. Mooney, Auxiliary Services manager. "But the jury is still out to see if there's any impact. If the sales increase, the longer hours and adjusted menu will adhere to demand," said Mooney.

"The more C-M students purchase at the Side Bar, the more leverage we have," said Kuboff.

Currently, Aramark has seen "no dramatic increase in sales," said Underwood. "We'll review the sales over the summer, and decide where we go from there."

## SURVEY: Behind the numbers

Continued from page 1--

in a professional field before attending law school, and returns to that job or a similar job after graduation, that too qualifies as employment. Geneva said this latter classification is because many professionals attend law school with no intent of ever practicing law.

Employment positions not included in the employment figures were those of unskilled labor and non-professional positions.

Geneva also said the methodology of the survey requires almost total participation from graduates. According to ABA standards, graduates who cannot be contacted must be assumed to be unemployed. The class of 2004 had 246 graduates, and Geneva said there was an 80 percent response rate by mail.

Those who did not respond were then contacted directly. In the end, seven graduates could not be contacted, and were counted as unemployed. "Had we been able to reach those graduates, I'm certain our overall number would have been higher," said Geneva.

Geneva acknowledged that rumors of a 40 percent employment rate had been circulating among students and graduates, but emphasized that "no reading of the raw numbers would yield that figure. It is completely unsubstantiated," said Geneva.

Of those 90 percent of graduates who are employed, 88 percent work in an area known by the ABA as the Mid-Atlantic Region.

In addition to Ohio, this region stretches east to Virginia, and includes all of the northeast states.

In comparison, the most recent information available from Case School of Law concerned the class of 2003. In that survey, 98.4 percent of graduates reported being either employed or enrolled in a post-JD degree program. A 2002 survey listed the University of Toledo's rate at 93.2 percent. Case's survey listed the national average at 91.6 percent.

# "Job well done," says SBA pres

**By Nick De Santis**
SBA PRESIDENT

I am pleased to announce that the C-M law faculty, on April 7, approved SBA's proposed change to the exam rescheduling policy. Last year the SBA proposed a policy to allow students to reschedule an exam if he or she had three exams within a 48-hour period. Seeking to expand on this policy, so that C-M could compete with other area law schools, the SBA created an exam policy task force, headed by Nadine Ezzie, 2L. Ezzie researched regional law schools and their policies and drafted a proposal for a policy allowing a student to reschedule an exam if he or she had two within a 24-hour period.

Although the faculty ultimately adopted a policy that would allow students to reschedule an exam if they had two on the same calendar day, this is without question a very positive step forward. The law school faculty should be commended for truly keeping students' best interest in mind.

I would personally like to thank Ezzie and the task force for their hard work. Hopefully, next year's SBA will continue to demonstrate the strong student advocacy exhibited by Ezzie and the task force.

In other news, the SBA, working with Vicki Plata, was able to secure for at least one more year, one payphone in the law school. I would like to thank Mike Laszlo, Plata and the many students, faculty and staff, for expressing their concerns and working for a mutually beneficial solution.

On April 18, the student government association (the undergraduate governing body) will hold its general election. There are two issues on the ballot that directly effect law students. The first issue is whether the university should continue the U-Pass program at a cost of $25 per student (this is a ten dollar increase from last year). The second issue is whether the U-Pass should apply to all full-time and part-time students (graduate and undergraduate). Law students will be able to vote on this issue on April 18, 19 and 20 in the business school or the UC. Brendan Healy will be sending further information as the voting date nears.

I would also like to thank the service week committee and the students, faculty and staff of CSU for making this year's blood, food and clothing drives successful. The members of the service week committee were Marisol Cordero-Goodman, Meredith Marcinko, Jamie Umerley and Brendan Healy. We were able to get enough blood donors to save or sustain at least 87 area patients, and were able to collect a considerable amount of food for the Cleveland Food Bank.

The SBA will be holding its officer elections on April 26 and 27. The election committee will be forwarding more information, including the guidelines, the SBA constitution and other necessary forms, to the students next week. I encourage all interested students to run.

# Clear and convincing error

The Gavel
*Editorial Opinion*

Over the past several weeks, Americans have witnessed that sometimes no matter who you have fighting for you, it is not enough. Terri Schiavo had her parents, the governor of Florida, the President of the United States, Congress, Rev. Jesse Jackson and even the Pope himself fighting for her, and sadly, the pleas of these influential people fell upon the deaf ears of the judiciary.

The immortal second sentence of the Declaration of Independence still reads as follows: "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are Life, Liberty and the Pursuit of Happiness. That to secure these rights, governments are instituted among men…"

By the logic of this timeless document, and given the absence of proof that Schiavo wished to have been starved to death if she ever found herself in a situation in which she was unable to feed herself, the government had a duty to secure her life, her most basic "unalienable" right.

There was recent evidence from world-renowned neurologists suggesting that Terri was in a state of minimal consciousness rather than the persistent vegetative state of which she was first diagnosed. Also, Terri's husband, Michael Schiavo, refused to allow an MRI to be performed.

Doctors were forced to rely only on a CAT scan (which reports only a tenth of the information contained in an MRI) and clinical studies based on Terri's actions alone. Unfortunately, this is the information the courts relied on as well. Don't you think that the courts had a duty to ensure that Terri received a thorough neurological exam before they sentenced her to death?

The truth is, Terri Schiavo was not comatose or brain dead. She was not terminally ill or dying. Her heart beat on its own and her lungs worked without assistance. She attempted to speak and recognized family members when her husband permitted them to visit her. Put simply, Schiavo was not *dying*, she was *disabled*.

Schiavo suffered from brain *damage*. Her injury left her so that she could not feed herself without assistance. The insertion of a feeding tube should never have become an issue. Christopher Reeves was on life support and could not feed himself. Reeves had a support system that was willing to take care of him.


Interestingly, so did Schiavo. Her parents were *begging* to take care of her. Michael Schiavo should have never placed himself at such odds with Terri's parents, who knew her and loved her for 20 years before Michael Schiavo even knew that she existed.

Oddly enough, in the 1992 medical malpractice suit that Michael filed after Terri became disabled, he claimed that she would have a long life and would need rehabilitative care, and stated on the record, under oath, that he would provide this care as long as he lived.

Isn't it strange that it took Michael Schiavo six years to remember that dying was actually his wife's wish? Michael refused to divorce Terri, but hasn't he been emotionally divorced from her for years? Did Michael really love Terri or was he more interested in inheriting the hundreds of thousands of dollars from residual funds left in Terri's trust account? Do you think the fact that Michael had a fiancée whom he was living with for the past nine years and the fact that he had two children by had any influence on the sudden revelation that Terri wanted to die?

One would think that a judge who knew these facts would undoubtedly be overwhelmed by a sense that something just doesn't seem right with the situation. This gut feeling should have caused them to dissect anything that Michael alleged to be true—especially the conveyance of Terri's "wishes." Instead of erring on the side of caution, though, the judges permitted a disaffected husband with dubious motives to have absolute control over his wife's fate.

The undisputable fact is that Terri left no justifiable instructions detailing what she would want if she were ever incapacitated. Since 1998, however, Michael Schiavo has insisted that Terri expressed her desire not to be kept alive "by artificial means" before her collapse in 1990. Keep in mind that Terri was only 26 years old when she suffered her brain injury.

The truth is, the four statements by which Michael alleges that Terri expressed her wishes to die if incapacitated were either casual remarks made to either himself, his brother or his sister-in-law while watching television or were off-hand remarks made in a group setting, where people are more likely to agree with the general consensus of the group without giving it much thought.

It is doubtful that these chance comments were made with any degree of thoughtfulness or consideration. Moreover, most young people never picture themselves in such a situation until much later in life.

Many young people today might also say that they would prefer death to life in a wheelchair without the use of their limbs. But how many people in wheelchairs would choose to be starved to death? The point is, when you are a young adult, you are more likely to make off-the-cuff remarks regarding events that you either never anticipate happening to you or at the very least, never expect to occur for years to come.

Florida law requires that if a person does not leave a written document, the evidence that the person wanted to be put to death if incapacitated must be "clear and convincing." Unfortunately, Terri's husband was able to convince Judge George Greer, the trial judge of the Pinellas-Pasco County Circuit Court who originally heard the Schiavo case, that Terri's wish was to die based on those casual remarks and even more unfortunately, the other courts followed suit.

According to the trial court record, Judge Greer never made a deeper inquiry into any of Terri's alleged statements; he simply took them at face value. Doesn't it make you uncomfortable that when a person's life is hanging in the balance, the judge did not bother to make a record of his analysis of Schiavo's true intentions when making these statements?

The truth of the matter is that the courts did not think that Schiavo had a "quality of life" worth living for. Our society has strayed significantly from the notion that we are endowed certain inalienable rights, such as life. Now, the law supports a culture of death whereby *courts* are the judges of whether another human being should live or die.

What happens to the disabled, the elderly and to all those who cannot help themselves. They are left at the mercy of others and in a society whose own judiciary finds it acceptable to order an inhumane death by starvation and dehydration, theirs is a dark fate. Hopefully, those who suffer persecution for justice's sake will find comfort in God, the Creator, whose name the endorsers of the Declaration of Independence so proudly proclaimed many years ago.

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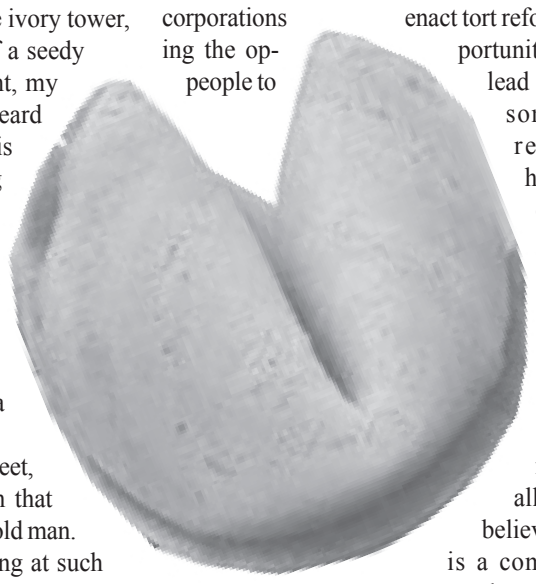
# Don't lose sight of your principles

**By Josh Dolesh**
GAVEL COLUMNIST

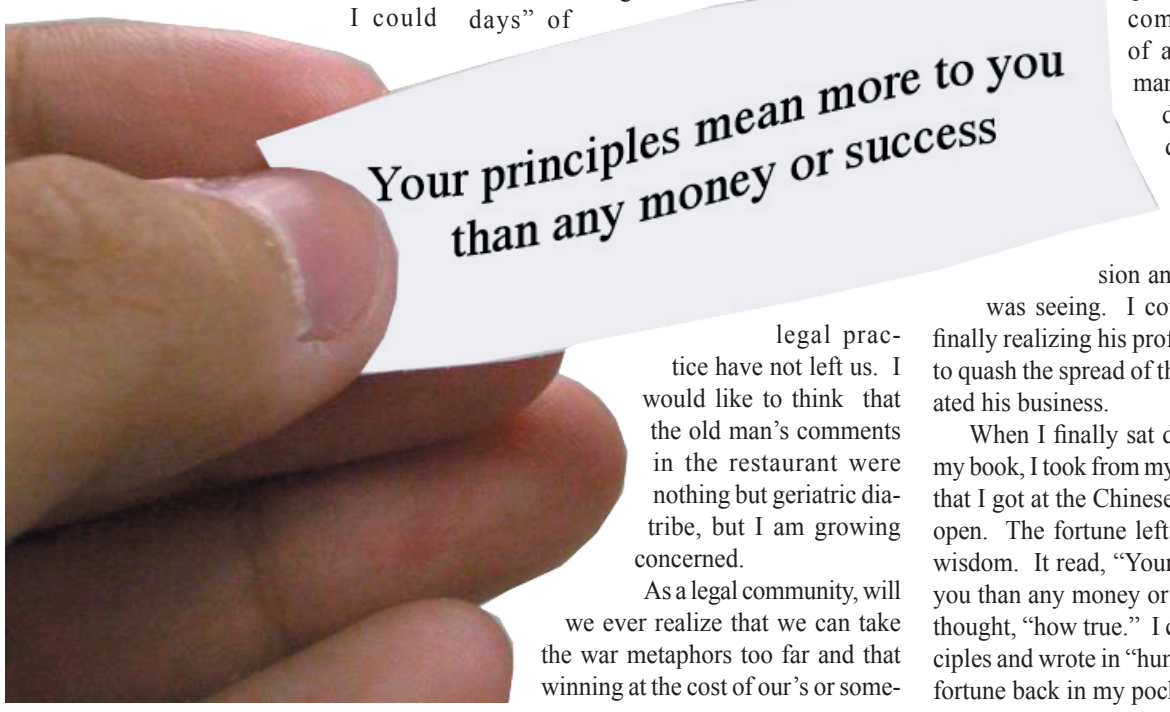
I overheard a person the other day at my favorite Chinese food establishment. He was an older guy, maybe 60 or 70. It looked like he was in the throws of his post-60, geriatric, pants up to the chest, downhill tumble that is the "golden" years. He had a wizened look about him and deep furrows had begun to envelop his eyes and forehead.

The man began to converse with another gentleman, I think he said he was 57. Among the late afternoon din of the restaurant's work crowd, the old man asked if the younger man was still in the business. The old man proceeded to speak of why he retired. His words were spoken with a quiet despair and were all but blotted out in the lunchtime conversations. "The business wasn't the same as it used to be." He added, "There are too many lawyers, and none of 'em give you any respect. They lie and they cheat, and it's all for the sake of winning and money."

With specter of class looming ever so close, I threw a tip on the table and headed to class. As I was leaving, all I could think about was the look of that old man. It appeared to me that he had just truly come to the realization that his "business" was not something born of the ivory tower, but rather, something born of a seedy back-alley bar. At that instant, my mind jumped to a story I had heard of an attorney throwing a tennis ball against the wall during a deposition and then lying about it when the other side moved for sanctions. I remembered when I heard this story, I laughed and thought to myself, "What a jerk, no wonder lawyers get such a bum rap."



While I was crossing the street, I made a connection between that anecdote and the words of the old man. I realized that if I was laughing at such asinine lawyerly behavior, then the state of the practice of law must be headed in the wrong direction. I thought, "The adversarial system is running rampant over decency and common courtesy." I would like to think that the "good old days" of legal practice have not left us. I would like to think that the old man's comments in the restaurant were nothing but geriatric diatribe, but I am growing concerned.




As a legal community, will we ever realize that we can take the war metaphors too far and that winning at the cost of our's or someone else's dignity is not winning at all? I have seen lawyers laugh at homeless people and spit on them. I have seen governments under pressure from corporations enact tort reform, restricting the opportunity for many people to lead a life where some dignity remains. I have seen an economics juggernaut ravage our country making it no less harsh than a land with no rule at all. I want to believe that there is a common good somewhere and that it is found in the respect for human dignity, but all indications point to the opposite.

Without a doubt, these indications are symptomatic of a disease that is spreading through the legal community and robbing it of any compassion for human dignity. Apparently, this disease led to some of the despair in the man's voice at the restaurant.

The man was looking at his life and his profession and he did not like what he was seeing. I could see his frustration in finally realizing his profession was doing nothing to quash the spread of the disease that had permeated his business.

When I finally sat down in class and opened my book, I took from my pocket the fortune cookie that I got at the Chinese restaurant and cracked it open. The fortune left me with a little piece of wisdom. It read, "Your principles mean more to you than any money or success." "How true," I thought, "how true." I crossed out the word principles and wrote in "human dignity" and stuck the fortune back in my pocket as a little reminder.

# What do you mean, you don't get it?

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

1L
*First year life*
*Part V*

Whatever mythical aura law school may have held has definitely been stripped away. After two rounds of midterms, last semester's finals and however many classes, any idealistic notions I had about law school have been entirely crushed. The daily monotony has set in, punctuated every so often by periods of frantic studying. Although this is somewhat of a downer since there was something exciting about just being in law school at first, it's kind of nice being able to somewhat predict what each day is going to bring.

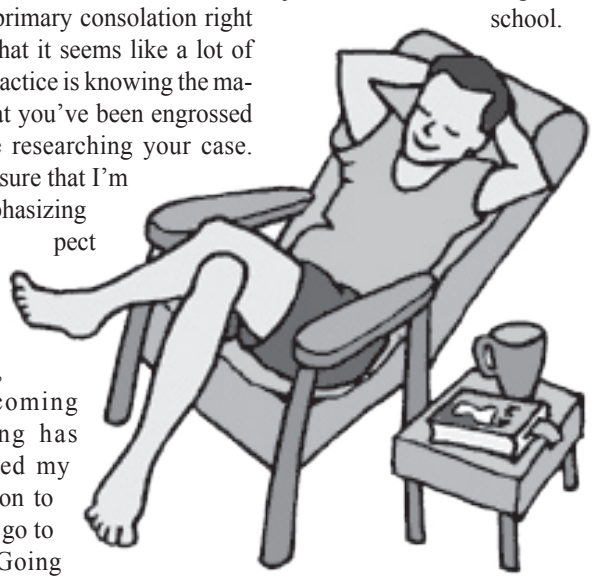
This being said, I am eternally grateful to many of my professors for moving towards a more traditional lecturing method this semester. While I tended to loath lecturing during undergrad, compared to the Socratic method, lecturing seems concise and carefree. Perhaps it's a law school tradition to scare the pants off of all the incoming 1Ls by stressing the Socratic method the first semester. Whatever it may be, I certainly could have done without all the stress and anxiety it brings.

I also have to say that a pleasant surprise has been how interesting some of our assignments have been this semester. Maybe it's just the nature of the material or subtle changes in the classes, but it seems like this semester has been more hands-on. This change, coupled with the relatively intriguing hypotheticals we've been given, has made a number of potentially excruciating projects enjoyably bearable.

A professor mentioned in class the other day that we ("I," thinking to myself) should be getting to the point where we're "starting to get it" (i.e. we should be able to "dig deeper" and advocate in our exam questions, going beyond mere application of the rules of law). Considering I'm entering the last month of my second semester, he's probably right, but I'm still struggling with just remembering the basics.

Looking to the end of this semester and beyond, I hope that the whole "deeper evaluation" thing will eventually become less of a problem for me, either because I find some trick to remembering things or because there's simply less to know, but it's somewhat disconcerting for the moment.

My primary consolation right now is that it seems like a lot of actual practice is knowing the material that you've been engrossed in while researching your case. But I'm sure that I'm overemphasizing this aspect of things.



Regardless, the oncoming of spring has decimated my motivation to study or go to class. Going outside and enjoying the relatively nice weather just seems overly enticing when compared with sitting in the library reading cases that we may or may not go over or an hour and fifteen minutes of sitting in a stifling classroom trying to grasp rules which only seem to become more obscure with discussion. But I suppose this is just another cost of being in law school.

# Open Mike

## 3L sounds off on recent events

**By Michael Luby**
GAVEL COLUMNIST

I went to a party the other day and someone brought up Terri Schiavo. Somehow it seemed the mix of Red Bull, vodka and Terri just wasn't flying, but just like the past month, people divided immediately. "One side wants to do the right thing for all the wrong reasons and one side wants to do the wrong thing for all the right reasons." I can't pinpoint who made this statement, but I'm pretty sure they ripped it off of "South Park" anyway. Perhaps its one of those Rorschach tests you get at the Natural History Museum. No matter how you read it, you can self-affirm your own beliefs and go on convinced your right.

Last week, Berlin police officials investigated a vibrating package at the post office. Employees watched in fear as the package moved from side to side until it was later discovered that a blow-up female doll was stuck inside. After contacting the sender, he replied that he was sending it back because it would turn on by itself at all times of the day. If only it were that simple in real life.

About a month ago, I had an office meeting and somehow we lost track of what we were supposed to be talking about. In any event, the topic turned to kids today and their inability to communicate in the corporate world without some form of compliment on an at least a semi-often basis. Per my co-workers, "Dateline" reported that this is due to the "babying" of teens these days. Apparently, Daniels Farm Elementary in Connecticut missed the report because it has now outlawed the use of red pens during the grading process. It cites parental concerns and objections.

Perhaps next, we can shift our attention to recess because I have just been informed excess exposure to peers in a relaxed atmosphere leads to forced communication and interaction.

Recently the two-year anniversary of the Iraq war went by with little more accolade than news of a 98 Degrees reunion tour. It appears that Congress is so complacent with the state of affairs that the absolute failure of intelligence regarding WMD's, combined with a new Iraqi regime which merely mimics Iran, is less important than emergency legislation aimed solely to insert the feeding tube of a single person. Really though, it makes sense in the scheme of things, cut my taxes so we can't afford a war we don't know how to stop.

# What to do when the money runs out...

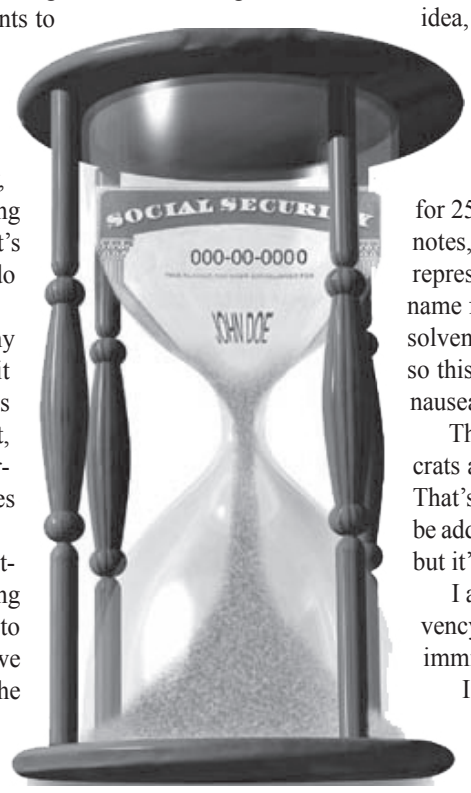
*Question: Are private accounts the panacea for Social Security?*


## By Benjamin Zober

GAVEL COLUMNIST

The only real crisis that Social Security faces is the threat from Chicken Little and his cohorts. However, unlike the fabled fowl, Bush can't even convince his flock that there even is a problem. While it's open-mic night for solutions, the only unanimity is in the area of personal accounts. The consensus there is that personal accounts are not a complete solution. President Bush himself admitted that "personal accounts do not solve the issue."

Never has it been so apparent that the President has no idea how to solve the problem he has made. He was eager to appease the public with tax cuts during his war, devaluing our currency and status in the world community. Now he wants to raise taxes to solve another problem that never existed.




Social Security is too important to be co-opted by partisan politics, corporate shills or statistical manipulation. The President claims the system will be bust. As grammatically dubious as this claim is, the economic basis is equally as shaky. Currently, the boomers who will supposedly bankrupt the system are paying a surplus. The government uses the surplus to cut the President's budget deficit. Removing more money from the system will do anything but preserve solvency.

Conservatives fought the creation of Social Security, many convinced that "social" was just code for socialism. Yet, it emerged as a vital program, ensuring healthy, solvent futures for people who could not support themselves during retirement, despite a lifetime of hard, honest work. Taking away that certainty and trading it for a share in the market ignores the realities of uncertainty and instability.

Social Security is a testament to politicians who were committed to protecting people during one of America's most troubling times. Now Bush and the conservatives have their chance to destroy it. The same formula worked to convince the public we should kill people in a search for WMD: build up a crisis, fix the alleged problem and look like heroes. The problem is there is no crisis.

Even if the surplus is gone by 2018 as the President's numerologists predict, the government will repay the loans it has been making and the system will be able to keep paying for at least 75 years. What then is being solved?

The problem that the Right has faced since the 1930s: that someone else was committed enough to protecting workers to create a compassionate, beneficial program for them. Now is their opportunity to dismantle a safety net that has protected people for 70 years. Bush can parade the fallacy that personal accounts implicate individual liberties. This thinly veiled appeal for states' rights is just as repugnant to equality today as it was for John C. Calhoun.

There is no crisis. Any fiscal insecurity is literally a lifetime away. Taking money out of the system and gambling with it certainly won't help. Markets fluctuate and cannot guarantee higher returns. Social Security was created to counteract the uncertainty of reliance on the market. It makes no sense to tie the system's efficacy back into that same volatile system.

Social Security was created to confront the reality that not all people could ensure the solvency of their own futures. Unfortunately, the Enron, Harken and Martha Stewart debacles suggest little has changed. If everyone could rely on investment strategies to finance their retirements, a socialized safety net would be unnecessary. With privatization, the rich will get richer and the poor will just hope bubbles do not break.


## By Steve Latkovic

GAVEL COLUMNIST

Conceptually, the idea of private accounts is fantastic. If one has ever invested, it's invigorating to see how your investments are doing. You can see, day-to-day, year-to-year how much money is being made. You control the money, even if its liquidity is inaccessible.

Realistically, I don't think it will happen. There have been a ton of statistics and numbers thrown around and, from my experience discussing this with people, very few actually understand anything at all. With that said, "scare-tactics," a favorite of liberals, especially with elderly programs, works wonders. So it is really no surprise these accounts have become less favorable with Americans. Bush and the Republicans have been doing a terrible job selling the idea, and the Democrats just bash away with no ideas of their own.

The economist David Wyss has estimated private accounts will impact favorably on SS by one trillion dollars over the next 75 years. That's actually not that much. In comparison, eliminating the wage cap on contributions would add roughly three trillion dollars.

The problem, of course, is that the "fund" is going broke. Maybe not for 25 years, but it will happen (there is no fund by the way – it's U.S. Treasury notes, so really it's *future* taxes). There are two dates that are notable; the first represents when old age survivors and disability insurance (OASDI), the official name for Social Security, obligations exceed OASDI taxes, and the second is insolvency. The Trustees estimate (there are a lot of factors that go into estimating, so this date changes ever year and people argue these dates and assumptions ad nauseam) the former to happen in 2017.

The latter date is estimated to happen in 2041. This statistic is one way Democrats argue there's no problem because nothing "bad" will happen for 35 years. That's just idiotic. If you know there's going to be a problem, why should it not be addressed as soon as possible? I know fixing these problems will be expensive, but it's not like waiting 20 years will make it any easier.

I also understand future growth and productivity gains will ensure some solvency, perhaps even beyond 2041, but I'd rather be safe than sorry. Relying on immigration to solve our problems doesn't sound like good economic policy.

I think private accounts may be part of the solution, but it isn't *the* solution. I think a number of things must be done.

First, and most importantly, OASDI and HI taxes should be included on everyone's annual income tax return. Still have withholding, but gross up both taxes owed and taxes paid on the 1040. These damn taxes are too easily ignored because so many Americans simply focus on net paid and never review total withheld. But I know people look at their 1040, damnit. This will at least get people thinking about how much they give away involuntarily. (7.65 percent of your pay, matched by your employer; the whole 15.3 percent if you're self-employed – which many lawyers are).

Second, raise the retirement age to 70. Life expectancy, under SSA tables, is roughly 74 for males and 79 for females. If people are living longer, they should have to work longer. There is no reason abled-bodied seniors can't work. Perhaps, and hold on for this crazy idea, people could actually save a little too on their own.

Third, I could be persuaded indexing the wage cap to wage inflation is ok. I say this only expecting my other taxes to fall. You'd think Republicans, of all the damn people, would cut spending. As I heard the great law mind Richard Epstein say recently, the only difference between Republicans and Democrats right now is where they spend the money. I wouldn't support elimination of the cap.

Finally, partially privatize SS funds. I don't know the details, but say the first ten percent or $1,000, whichever is smaller, of each person's OASDI taxes, will be placed into an investment account. As for where and how to invest, that's a whole other discussion and one I think that's ancillary. Private accounts not only allow real earnings to be made (which doesn't happen now), but will reduce the overall burden on the system later.

# Conservative rebuttal...

First, Mr. Zober comments, "The government will repay the loans it has been making and the system will be able to keep paying for at least 75 years." The whole point of why the system is in trouble is precisely because the government has to "repay loans." The whole thing is pay as you go. The so-called assets are future taxes. When the ratio of workers to retirees becomes 2-1, it's not going to be a cakewalk to provide support, though Zober seems to suggest we do nothing. Shazam! Life will just keep on keepin' on. He says, "[a]ny fiscal insecurity is literally a lifetime away." Apparently he wants to screw our kids.

Second, he states, "[t]aking money out of the system and gambling with it certainly won't help. Markets fluctuate and cannot guarantee higher returns." Social Security's internal rate of return is under two percent. Six-month CD's are paying more at roughly three percent. Of course there's fluctuation in the market, but SS funds are not for day trading. The market has a historical annualized return of at least six percent. Additionally, only a portion of funds will be invested and participation in private accounts will be voluntary.

In Bill Clinton's 1998 State of the Union speech dealing with the then-projected government surplus, he said, "[w]hat should we do with this projected surplus? I have a simple four-word answer: Save Social Security first." Wow, not a bad idea.

# Liberal rebuttal...

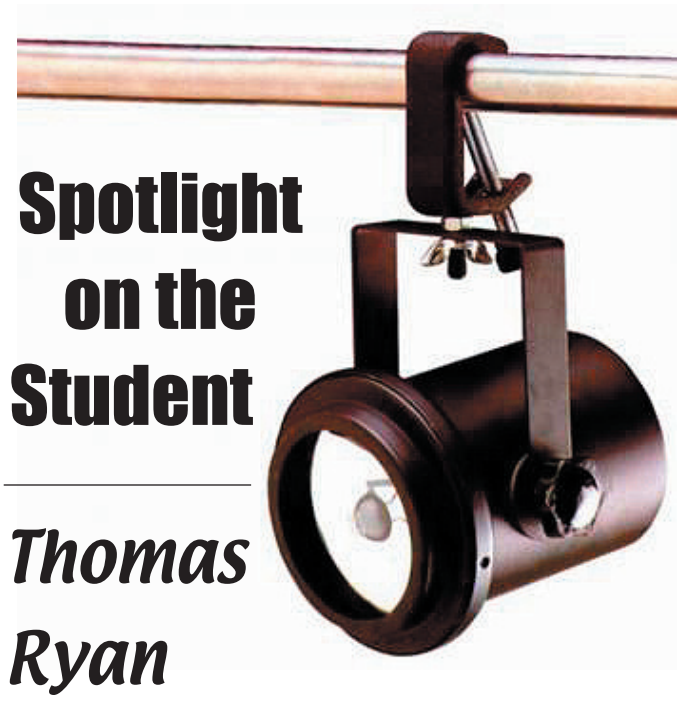
The proposals for Social Security lack certainty, consistency and clarity. As we learned in Iraq, an ad hoc strategy is no way to run a war, let alone a plan to win the peace, be it peace on earth or peace of mind for our nation's seniors.

There is possibly nothing more frightening for an aging workforce than telling people they may never get the chance to retire, or at least will have to keep working long after they should have been able to relax and enjoy their efforts and labors.

It also comes as no comfort to anyone searching for a job that people who do have employment will be holding onto it even longer. If we raise the retirement age every time someone cries "wolf," it won't be long before the retirement age exceeds life expectancy: creating a neocon twist on working yourself to death.

Continuing to drain the system in order to let people gamble with it doesn't help avert a crisis, especially a fictitious one. It certainly does nothing to stop the damage from the legerdemain furtively used to take people's money and pay down a Kafkaesque debt. Bush is taking people's money and funding his fiscal recklessness. Turning around and then threatening to strip the security from those same hardworking folks isn't "just idiotic," it's mean.

Scrapping the system that has worked so well and can continue to work if left unmolested is foolhardy. It is irresponsible to incite a panic and then sit back hoping for someone to solve your problem. That is the difference between a gadfly and a policy-maker.



# Spotlight on the Student

## *Thomas Ryan*

Some students might see Thomas Ryan, 2L, walking through the halls of C-M, but what many do not know is that Thomas is running for mayor of North Olmsted. Thomas said that North Olmsted is in need of a change and a young, enthusiastic, experienced candidate is just the person to shape the city's future in a positive direction.

North Olmsted is Thomas' hometown. Thomas graduated from Ashland University in 2000 with a bachelor's of science degree in Chemistry. After a brief career in chemistry, Thomas moved to New York City to work in the computer industry as a consultant for IBM. His responsibilities included development of voice recognition software, management of developers and management of large-scale integration projects. Thomas is currently working with several attorneys performing case management and client relations for their practice.

Thomas said that if elected mayor, he would bring real-world experience to the mayor's office, but he knows that his opponents will focus on his age as a reason why he is unqualified or unfit for the duties of mayor.

Thomas' strategy on overcoming this obstacle has been to focus on his education and management experience within the private sector and demonstrate how these skills can be effectively transferred to the mayor's office. "I have attempted to reframe the issue of age into one about education, experience and ideas about the future of North Olmsted," said Thomas.

If Thomas wins the race, one change he would like to initiate is the way projects are managed from the Mayor's office.

"Using my computer and experience and incorporating management software applications, projects and services within the city, will be completed on time and in a cost-effective manner," Thomas said. "Approaching projects in this way will have a wide-ranging and positive impact on the timelines and costs of projects within the city."

If elected, Thomas would also like to focus upon the issue of technology to attract new businesses to the community. Specifically, he wants to offer free wireless Internet access to small businesses.

Thomas does, however, support the way in which the police and fire services are currently being managed, dispatched and utilized.

Thomas said that his C-M experience has helped him campaign in a number of ways. "I have learned how to develop an argument and how to effectively demonstrate reasons why my ideas can solve some of the issues facing the city. Law school has also taught me how to think on my feet and to be prepared for questions and criticism," said Thomas.

When asked if he finds it difficult to balance his campaigning with the demands of law school, Thomas said that it is difficult, especially the closer it gets to the May 3 primary and finals. Thomas said, "There have been a few occasions where I needed to miss class to attend an event, but so far I have been able to manage all my responsibilities." He said his effectiveness in balancing these two areas of his life will be revealed when he knows both his results for both the election and final grades.

Currently, Thomas' only political focus is to make a positive change for the city of North Olmsted. He is uncertain whether he wants to pursue a political career after law school.

Outside of law school and campaigning, Thomas likes to read and run. Right now, however, Thomas said that all of his spare time goes to sleeping and legal writing.

# In the neighborhood

**By Marie Rehmar**
CONTRIBUTING WRITER

**Think Libraries**

Celebrate April's National Library Week right here at your Law Library!

Have you ever used Cleveland Public Library downtown? It's on Superior Avenue, between E. 3rd and E. 6th Street. It's not only another resource for electronic access to additional databases (get a card if you don't already have one so you are a "registered borrower" with access to them) and for a more extensive U.S. Government Documents Depository collection, but did you know that the John W. White Collection of Folklore, Orientalia and Chess has the world's largest and most comprehensive chess library?

But, if baseball is more your interest, the Baseball Collection in the Social Sciences Deptartment in the Stokes Annex includes books, periodicals, photographs, 40 years of daily box scores, numerous historic scrapbooks and many other materials from the extensive private collections of two dedicated collectors, Charles W. Mears, a pioneer in the area of baseball statistics, and Eugene C. Murdoch.

If you're headed to the CSU Law program in St. Petersburg, Russia this summer, check out some of the dictionaries and language instruction materials from the foreign literature dept. or travel titles from the excellent collection in the history dept.

The Public Administration Library at Cleveland City Hall, at E. 6th and Lakeside, a short #247 Loop Bus ride from right outside, is one of the oldest (est. 1912) municipal reference libraries in the country. It has an excellent, extensive collection of local government resources, including current journals and the Urban Documents microfiche collection. It's the Law Library for the City of Cleveland's Law Deptartment, but being a branch of Cleveland Public Library, it is open to the public.

Thinking ahead to summer, many area attorneys and law firms are members of the Cleveland Law Library Association, a membership library on the 4th floor of the Cuyahoga County Courthouse at Ontario and Lakeside.

**Think Outdoors**

ParkWorks, Inc. has been developing a series of walks around the city. Another collaborative project in which they are involved, the Plaza at Huron at E. 9th Street, will provide an attractive space bridging the Gateway and Theater Districts. Check www.parkworks.org to find out about the many ways this nonprofit is making our Cleveland environment more beautiful.

Gateway means baseball, and this is April, so get studying to be able to take a break for a game or two at Jacobs Field.

Still haven't started on your New Year's resolution about your physical health? For a low cost route – CSU has open recreation times at the pool, Woodling Gym, weight room and track. Go to the CSU website, click on Athletics, click on Open Recreation for information.

**Think "Things" Still to Be Done This Spring**

The City Club of Cleveland, 850 Euclid Ave. (216) 632-0082, offers student memberships for $50. Coming at noon on Fri. 4/15: Donald L. Korb, Chief Counsel, Internal Revenue Service; on Wed. 4/20: Steve Brogan, Managing Partner of Jones Day, and Fred Nance, Managing Partner of Squire, Sanders and Dempsey LLP, on "The Future of Cleveland's Legal Profession;" and at 7:30 a.m. on Fri. 5/6: Ronald J. Alsop, News Editor and Senior Writer, the Wall Street Journal, on "Corporate Reputation Management and Mismanagement."

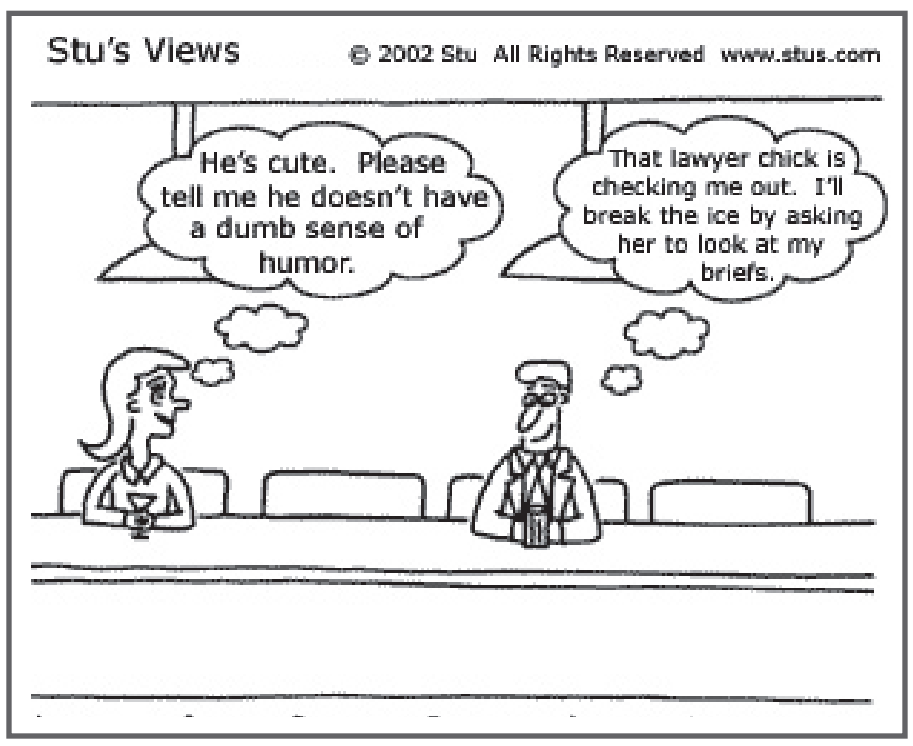
The Greater Cleveland International Lawyers Group, www.gcilg.org, meets at the City Club. Membership is $50, but law students can attend the luncheons at the reduced price of six dollars.

The luncheon on May 19 includes Cesar Ochoa-Reyes, Enrique, Gonzalez, Aquirre y. Ochoa, Juarez, Mexico "Legal Aspects of Doing Business in Mexico – Where is Fox Taking Mexico?"

And, if you had been planning to visit the Cleveland Museum of Art, do it now before more of the galleries are closed for the museum's major renovation and expansion project. Check www.clemusart.com for details. The Armor Court will be open through the Memorial Day Weekend.

The special exhibition, "Masterworks from The Phillips Collection," featuring masterpieces by Renoir, Braque, Cezanne, Corot, Daumier, Degas, Gauguin and others will be at the Museum through May 29. Admission is $10 weekdays and $12 weekends for adults, $9 for seniors and college students; $7 for students 6 to 18, and the audio tour is included. Reservations in advance are recommended.

GAVEL GIGGLES



# Letters to the Editor

## Part-timers strike back

Dear Editors,

While I understand that you were trying to promote how C-M can attain its goals of more national recognition and improvement in the bar passage rates, there were a couple of particular points on which I disagree with you.

In applying Learned Hand's Formula to the night school "problem," as you would have it labeled, you would have to consider the $6 million donation from Mr. Wolstein as a loss, as he was a night school attendee as were many of the school's most notable graduates.

Maybe you should stop and consider why that is. Is it possible that night students really want the law degree, not the way a kid out of school with no job and money to burn, who is just avoiding growing up, "wants" a law degree. A kid who wants to continue hiding from the real world that is filled with responsibility not dollar draughts on Mon., Tue., Wed. and Thu. nights.

Now who do you think in this equation is going to get the better job in the "real" legal world, the student with an excellent work ethic and real world applicable experience or the student with one internship where he/she did a really good job making copies and running around the city. Now which group did you say would produce competent lawyers? Within the legal community the night school at C-M is held in higher regard than the day school. That should probably factor into the formula as well.

I was initially accepted into the day school and congratulate myself daily on my choice to pursue night school. The reason that I prefer night school does not even really lie with the facts that I am supporting myself, gaining a quality education and making numerous contacts in the legal profession.

It is because of the people that I share my classroom with, I believe some of my classmates to be among the most intelligent, inspiring people that I have ever come into come to with. I am the youngest in our class, but I look up to and learn from the company owners, managers, teachers, mothers, fathers, accountants, engineers, nurses and doctors that I share my classroom with.

Jason, I question that without any real world experiences to speak of that you would fully understand the importance of the night school and the competency of the lawyers it produces, that is why I wrote to you. The Bar Exam is one test, you can't rank life experience. I chose C-M for the real world experience and contacts it would provide, I am unclear why you are here. If rankings are so important to you, why aren't you at one of those schools?

*Anne Bringman*

*Editor's Response: First of all, I want to thank you for providing valuable student feedback on my editorial. I do want to point out that, although apparently interpreted differently, my editorial was not intended to be an attack on the part-time program. If anything, it was an attack on the school for pressuring part-time students. Actually, I have the utmost respect for all part-time students for their ability to balance law school, careers, families, etc.*

*With that in mind, I do have some issues of contention with your letter. I am aware that my editorial stated that part-time "programs are not in the best interest of developing competent lawyers." This is not an attack on the part-time students and does not imply that part-time students make incompetent lawyers. Rather, simple deductive logic makes this point clear.*

*The Bar Exam's stated purpose is to ensure that those who obtain the privilege of practicing laware competent to do so. If one school has a bar passage rate of 60 percent, while another school has a bar passage rate of 90 percent, I think most people would agree that the former school is not doing as good a job as the latter school at developing competent lawyers.*

*This in no way means that all graduates of the school with the 60 percent passage rate are incompetent, rather it implies that such schools are not the best at developing competent lawyers. It would follow that if part-time students are passing the bar at a lower rate than full-time students, the part-time program is not "in the best interest of developing competent lawyers. Once again, this does not imply that part-time student are incompetent.*

*Secondly, you state that you doubt that I fully understand the importance of the part-time program because I lack "any real world experience to speak of." Once again, your observations are flawed. Why do you assume that I have no real world experience simply because I am at school full-time? Actually, I worked full-time for two years prior to putting my career and financial welfare on hold and commencing law school. I think that it is naïve to assume that all full-time students have no real world experience.*

*Finally, in your letter, you say that part-time students have "money to burn" and are attending law school to hide from the real world. Maybe I am the only one, but I didn't have $60,000 stowed away to pay for my education. Rather, substantial students loans are financing my endeavor. If hiding from the real world is my only reason for being in law school, I am paying a pretty high price.*

*Jason Smith, Co-Editor-in-Chief*

Dear Editors,

This letter is in response to Jason Smith's article entitled "Say goodnight to [the] part-time program." Mr. Smith argues that the simplest way to increase C-M's national reputation would be to eliminate the part-time program. He argues that if the part-time program is eliminated, then it is likely (if not inevitable) that C-M will be elevated to a tier two status in *U.S. News and World Report's* Law School Rankings. Unfortunately, elimination of the part-time program would likely have the opposite effect!

In ranking law schools, *U.S. News* gives very little significance to a school's bar passage rate – bar passage only accounts for two percent of a school's overall score.

However, job placement of students after graduation accounts for 18 percent of a school's total score. Although evening students generally have a lower bar passage rate, they typically leave C-M employed. Given that job placement after graduation is such a significant factor in calculating a law school's overall score, it would seem that elimination of the part-time program would likely hurt C-M's ranking.

Furthermore, eliminating the part-time program would likely result in a significant increase in tuition, which might discourage qualified students from attending C-M. Part-time students pay nearly $67 more per credit hour than their full-time counterparts.

A student who goes through all four years of the part-time program spends over $6000 more on tuition than a full-time student who graduates in three years. If the program were eliminated, the school would likely have to compensate for this loss by increasing tuition (this, of course, would be in addition to the annual increase in tuition that occurs). The result: qualified students might decide that, although C-M is still relatively cheaper than other Ohio law schools, it is no longer a bargain.

Admittedly, if our law school ranking increases, a raise in tuition might be justified; however, a higher ranking will not happen instantaneously (as Mr. Smith assumes), but will take time. During this period, the school will likely lose the scholarship of some excellent students, resulting in a decrease in the school's academic reputation.

Mr. Smith places much emphasis on the low bar passage rates of part-time students, but fails to consider the many ways in which the part-time program actually benefits C-M. At one point in his article, he evokes the ever-popular Learned Hand Balancing test to support his conclusion that C-M should eliminate the part-time program. Unfortunately, Mr. Smith conducts his test on an unsound scale, one pan composed of lead, the other air.

*Brendan Healy, 3L*

# Mail Pail


## Student protests psychic's visit to Wolstein Center

Dear Editors,

I was shocked and amazed when I opened last week's *Free Times* and saw that famous "psychic" Sylvia Browne is going to make an appearance at the Wolstein Center on May 3. Has CSU really become so desperate for revenue that it would stoop this low to put on a show with a so-called psychic?

Sylvia Browne professes to have the abilities to see the future, diagnose people without physical examination and be a conduit for communication with the dead. She sells books and appears periodically on the "Montel Williams Show" and "Larry King Live" along with making live appearances.

Brown's psychic ability is nothing more than guesses that either take some liberal interpretation to make them fit an event that has occurred or are near sure bets to occur (hurricanes in Florida are quite common) when they come true.

Most of her predictions end up not happening, but are forgotten when the hits are played up. Sylvia predicted the death of His Holiness, Pope John Paul II, and she will surely play that up in her May appearance. She predicted it for 2004 but did not repeat the prediction for this year.

John Edwards, James van Praagh and Alison DuBois, along with Sylvia claim to communicate with the dead. Mediums use a process called "cold reading" to draw in their victims. Cold reading works by using general questions and statements and watching the subject's reaction. If the subject reacts positively, the medium moves on to more specific statements and questions, keeping a watch on the subject's body language and vocal cues for a positive reaction.

As the medium makes hits, the subject forgets the misses and overemphasizes the hits, creating the perception that the medium really is conveying messages from the other side. The message is really just platitudes after a long guessing game.

Sylvia also claims to be able to diagnose medical problems. She has made claims that fibromyalgia (a chronic pain disorder) responds to a high-protein diet (no medical studies support this), blood clots are hemorrhages (they are complete opposites) and has called bilirubin a live enzyme (it isn't, it's the leftovers of broken down red blood cells).

I'm not completely sure what this sort of practice is called in Ohio, but the law of California (where Sylvia bases her operations) calls this "practicing medicine without a license."

Before playing guessing games for profit and making medical diagnoses without any medical education, Sylvia was convicted in 1992 for selling securities in a gold-mining venture under false pretenses under her then name of Sylvia Celeste Brown. In 1999, a six-year-old girl named Opal Jo Jennings was abducted from her home in north Texas.

After a thorough search failed to discover her, her grandmother went to Sylvia on an episode of the "Montel Williams Show." Sylvia told her Opal Jo was in Japan, having been sold into white slavery. She gave the name of a Japanese city that did not exist to add some sort of credibility to her wild guesses. Towards the end of 2003, Opal Jo's body was found; the confessed killer and abductor since convicted and serving his sentence.

So a criminal, pathologically lying con artist is coming to the Wolstein Center. Now, I'm sure the higher-ups of CSU will tell me, "CSU does not endorse nor have any opinion of any show that is put on at the Wolstein Center lest we be dragged into court on any number of frivilous lawsuits." You almost have your Juris Doctor, surely you know this."

The Wolstein Center is part of CSU's identity. If CSU is supposed to be seen by the community as an institute of higher learning, that image is tarnished. And CSU's credibility is shot when spectacles like this can be carried out without any protest or criticism.

I ask the deans, professors and students, not only of C-M, but also of all of CSU to let the administration hear our voices that we want a school that stands for education over ignorance and skepticism and inquiry over blind credulousness. Maybe the show must go on, but our disappointment with this decision can still have a voice.

*Ryan Ramage, 3L*