

1992

## In Brief

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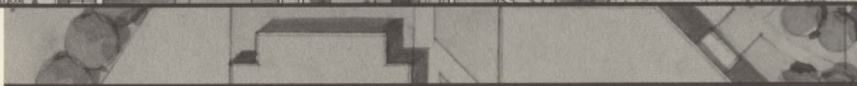
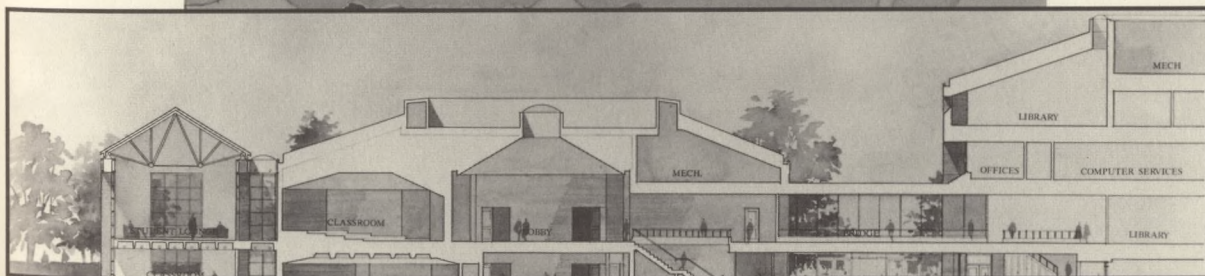
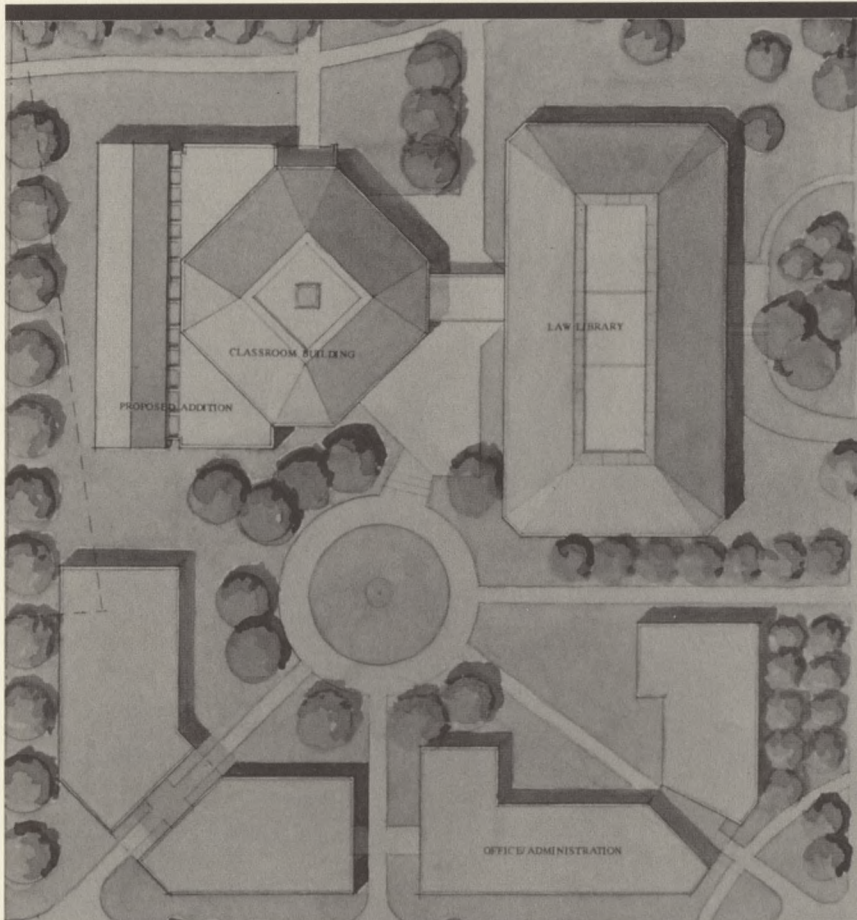
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# in brief

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## in brief

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# The Dean Reports

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This is not just our centennial year. This year, we also begin our building expansion.

I have talked and written about our space needs for a number of years. They are real and they are immediate. Legal education has changed since Gund Hall was built: we have smaller classes, more interactive education, and computer and video technologies. This is all for the better, but it means that we need more faculty offices, smaller classrooms, and new space for computers and video. Moreover, as the programs of the law school have grown—in both scope and stature—our administrative and program staff has increased. As just one example, we now have three student-edited and one faculty-edited journal; each deserves better space than we are now able to give it.

On the other hand, our space needs do not overshadow, or supersede, our need to continue developing our educational program through enhanced student financial aid, support for faculty, and innovative curricular changes. As a result, we have defined a building program that allows us to meet our immediate space needs but postpones any larger expenditure until our new programs are more developed and we can see more clearly what their space needs will be.

The process that is now coming to fruition began almost two years ago, when I decided that it would be unwise to make our physical needs the exclusive focus of the Centennial Initiative Campaign. Instead, I thought it important to reflect our overall priorities in the campaign by raising money to support both our physical space needs and endowments that will enrich our program generally. We hired the firm of van Dijk, Johnson & Partners to help us systematically define our space needs, determine whether we could more efficiently allocate space within our existing buildings, and suggest how we might meet our immediate needs without undue capital expenditures.

Representatives of the firm met with faculty and administrators to discuss our space needs and conducted a comprehensive survey of the way we use space within our existing buildings. They examined and rejected a number of options, including moving several programs to a house down the street (programmatically unsound), adding more compact shelving in the library (too heavy, except on the ground floor), or adding another story to the main law building (not practical). Although they found that some reconfiguration of space within the law school was possible and advisable, they concluded that it would be impossible to get the space we need within our present confines without completely destroying the openness and the beauty of the present building. In short, we are using our present space about as efficiently as possible.

As a result of their study, the university Board of Trustees decided to go ahead with a building expansion of modest



proportions. They hired the Boston firm of Graham Gund Architects to present us with options. We gave them several planning parameters. First, the new construction must not detract from the architectural integrity of the present building. Second, it should meet a program that requires an additional 17,000 square feet of space, at a budget of \$3 to \$4 million. Third, it should be designed so that the building complex can be further expanded in response to further developments at the law school. This new construction must be considered as part of a master plan for the school's physical development.

The plan they came up with is both ingenious and simple. Basically, we want to expand the classroom pod of Gund Hall by about 20,000 square feet by extending it toward the Cleveland Institute of Art to accommodate new classroom and student space. In turn, this will free space in the present building and allow us to expand our law clinic, the library, and faculty offices. We call this the Phase I construction, and I will provide more details about it below.

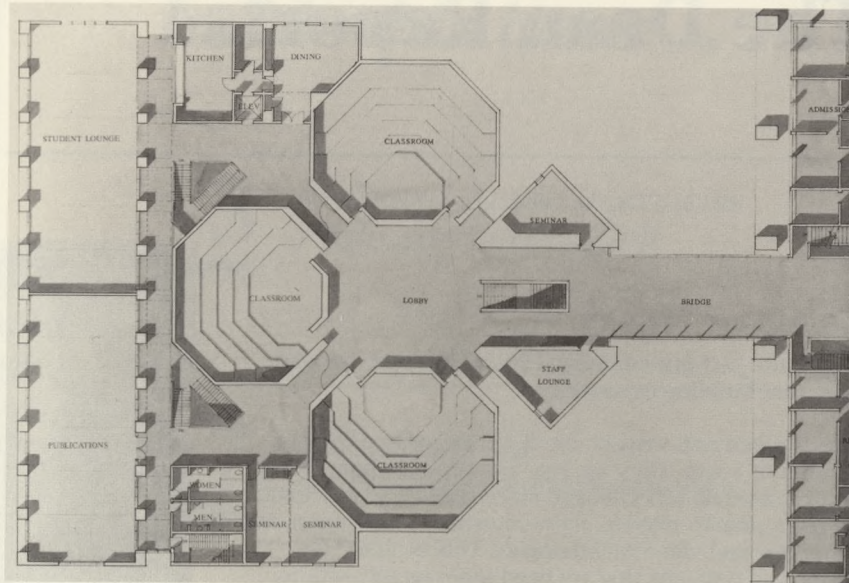
This construction is tied in with a master plan for the "law campus," a picture of which is on the cover. President Agnar Pytte has said that the property between Ford and Bellflower roads and the Institute of Art is dedicated to the future uses of the law school. This allows us to imagine a law quadrangle, with narrow buildings relatively close to the street, surrounding an open court. The buildings can be connected either by bridges or by tunnels. Although it is impossible to predict exactly what will go where, one can easily imagine a low auditorium and additional space for international law programs and the Law-Medicine Center.

For now, the Phase I construction will greatly enhance the educational program at the law school. The schematic drawings reproduced on page 2 show the expansion. The first-floor doors that now provide emergency exits from the upper rotunda will soon lead into the new addition. At that first-floor level, we will provide a new student lounge, new space for student publications, expanded space for student organizations, and student computer workstations. On the ground-floor level below, connected through the lower rotunda and through a stairway in the new addition, will be two seminar rooms and three

classrooms that can each accommodate a class of 50 but can be further subdivided to produce six classrooms for small groups (up to 20 students).

Architecturally, the new construction will be stunning. It will transform the windowless and insignificant classroom building (almost an afterthought compared to the massive main building) into a substantial highlight along East Boulevard. It will be sheathed in the same brick as the present building, and its features, while different, will mimic and complement the features of the present building. Inside, the space will be beautiful—maintaining the brick and wood interiors, while bathing the space with light from large windows and a long skylight running the length of the new addition. The gabled roof will be supported by trusses and exposed to the ceiling, making the upper floors very attractive.

The addition not only provides the classrooms we need, it also shifts student activities out of the ground floor and into attractive space that is integrated with the classrooms, the intellectual heart of the law school. This will be helpful when recruiting students, and it should strengthen our sense of community. It also allows us to expand our library on the ground floor of the main building, so that we can install new compact shelving to increase our shelf capacity, and create room on the second floor of the library for our expanded computer operations. We will also expand—substantially—the clinic on the ground floor. Finally, we will construct six new



faculty offices on the Ford Road side of the second floor, making it possible to keep the faculty together on one floor and providing more attractive space for faculty who are now in offices without windows.

Because we are not increasing enrollment, even when the building is completed, this construction will not be financed or maintained out of tuition dollars. That means that we must raise the money from private sources—people like you. Fortunately, we have already raised almost \$3 million for the construction. If I make a few more friends in the next couple of weeks, we will be ready to go. The date is set for the groundbreaking—Saturday, September 19.

—Peter M. Gerhart

## A Very Important Grant

Professor Maxwell J. Mehlman, director of the Law-Medicine Center, is pleased to announce that the center has received a \$350,000 grant from the National Institutes of Health to study the ethical, legal, and social implications of the Human Genome Initiative—the massive international project to map and sequence the human genome.

The Human Genome Initiative is expected to cost a total of \$3 billion and to take between 15 and 20 years to complete. Potentially, it is the most significant scientific endeavor ever undertaken. When it is finished, scientists will know the location of all of the genes that make up the human organism. This will enable people to analyze their specific genetic material in order to predict their susceptibility to genetic diseases and disorders. Coupled with the emerging techniques of genetic engineering, this information will enable us to alter our genetic endowments, or those of our offspring, both to reduce the likelihood of genetic diseases and disorders and to enhance desirable genetic traits.

As a condition for authorizing funding for the Human Genome Initiative, the U.S. Congress has specified that a portion of the funds must be used to explore its ethical, legal, and social implications. The NIH is overseeing both the mapping and sequencing program itself and the companion studies in ethics, law, and the social sciences.

In one of the largest grants ever awarded under the companion program, the Law-Medicine Center has

received funding to address the issue of distributive justice and the genome. The study will take two years. It will explore which persons would be given access to the various genetic technologies that will be made possible by the Human Genome Initiative if access were governed by the same principles that currently control access to health care services in the United States, and how access patterns would change if they were governed by a number of different theories of distributive justice. The study then will draw conclusions about the social and political implications of the alternatives.

An NIH statement in awarding the grant praised the Law-Medicine Center's proposed study: "This is a highly creative, carefully and thoughtfully designed, truly interdisciplinary multi-stage project. . . . It will address fundamental questions, the answers to which may suggest broad reform of our health care system."

Mehlman is the principal investigator for the study, and his co-investigator is Jeffrey Botkin, M.D., now at the University of Utah. They will be assisted by three of Mehlman's CWRU colleagues—Thomas Murray, director of the Center for Biomedical Ethics at the School of Medicine; Duncan Neuhauser, professor of epidemiology and biostatistics; and J. B. Silvers, Treuhaft Professor at the Weatherhead School of Management—and Seymour Perry, M.D., of the Georgetown University School of Medicine.

# Narrative Writing as Legal Scholarship

## An Interview with Derrick Bell

by Arthur D. Austin II  
Edgar A. Hahn Professor of Law

**D**errick A. Bell, who has been lawyer, administrator, law professor, and dean, is surely the best known black activist in legal education. The first black law professor at Harvard, he took an unpaid leave of absence in 1990 to protest the school's failure to grant tenure to black females. This summer his two-year absence was deemed by Harvard to be a resignation. His activist activities tend to overshadow Bell's seminal contribution to a new form of legal scholarship—the narrative or storytelling style.

Conventional legal scholarship comes in three forms—vocational, which tells lawyers how to do it; doctrinal, which exposes problems, analyzes, and advises; interdisciplinary, which blends law with other disciplines to show relationships. Narrative tells a story. It describes the author's personal encounters with the challenges of law and society.

Bell introduced the new style in 1985 when *The Civil Rights Chronicles* appeared as the Foreword to the *Harvard Law Review's* annual Supreme Court review. In the *Chronicles*, Bell creates Geneva Crenshaw, a forceful woman who describes four fantasies which she and her companion analyze. Each fantasy concerns a serious issue of race conflict.

I interviewed Professor Bell in April, when he came to Case Western Reserve to speak at the annual banquet of the Black Law Students Association. What follows is a condensation of our interview. I speak in italic type; the Roman type is Professor Bell.

*What prompted you, Derrick Bell, to go into the narrative mode of scholarship?*

Well, we all use hypo's in class. And we all use little factual stories as the basis for law school exams. Those are stepping stones toward narrative. Then in my textbook, *Race, Racism and American Law*, I used lengthier hypotheticals, two or three pages, at the end of each chapter. I suggested that these fictional cases should be a basis for coverage of the chapter, rather than going case by case.

And then in 1985 the *Harvard Law Review* asked me to write the Foreword to their annual Supreme Court issue. I wanted to do something significant about race, and it just seemed to me that a traditional doctrinal discussion of cases was not going to do it. The subject required a broader perspective.

I've always fantasized (and probably a lot of people do this): What would happen if George Washington came back, and Thomas Jefferson, and you had a chance to show them around—show them television, airplanes, bridges, all the rest. I posed this question: What would I show them first, what would I try to teach them about? And a charac-

ter, Geneva Crenshaw, who became the heroine of my book, *And We Are Not Saved*, gave me the answer. She said, "First, you would have to explain to them how you as a black got free of your chains and gained the audacity to try to teach white men anything."

*Why her name? Why "Geneva Crenshaw"?*

It just came. Crenshaw is a black name—I don't know any white Crenshaws—and clearly a Southern name. So that fit. And Geneva is the name of a woman in Portland, Oregon, a black woman about six feet three, who has had quite a full life. She runs a barber shop. Her husband has had a number of businesses, shady and not so shady. She's had all kinds of bad things happen in her life. But she's a survivor.

And she lives in two worlds. I mean she cuts hair in this barber shop she owns in this poor section of town. But one evening I happened to meet her, with her husband, at a concert. And this woman, that I'd always seen in a white smock, looked like one million dollars. Her dress must have cost a fortune. And her husband was impeccably turned out in some kind of Italian suit.

The *Chronicles*, expanded to a book, became THE judgment on law and race. It filtered the issues through a new form of scholarship and, in doing so, made the narrative style respectable. A group of minority faculty—soon to become the Critical Race Theory movement—appropriated storytelling as a symbol and a trademark.

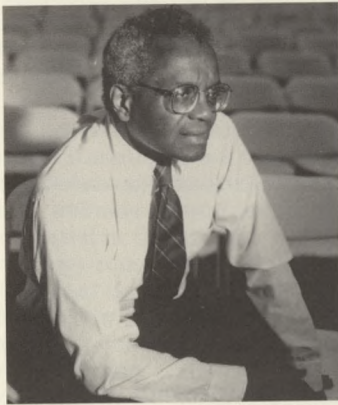
To this group storytelling is the ideal vehicle to dramatize what they view as a racist legal system that mirrors a racist society. Unlike conventional scholarship, which is analytical and aspires to neutrality, short stories can function on many shifting levels, such as the law as law, the emotional effects of law, and the experiences of being excluded from the legal system.

*You said that Geneva lives in two worlds, survives in two worlds. Many narrative writers, Patricia Williams for example, say that people of color have a unique advantage from the actual experience of living in two worlds, or just intuitively knowing about it. Is that true?*

I think so. It's simply true that we gain more insight about life from pain than pleasure. From being left out than from being included. The excluded in our society have a view of that society that most of those who are in it don't have.

*The oppression element and the two-world element is certainly important to storytelling. You know Professor Alex Johnson; I want to quote something he said in a footnote, and I want you to comment on it. He says:*

*"Indeed, I contend that white males do not employ the narrative storytelling style because to do so would result in*



*Derrick A. Bell, Jr., holds the A.B. from Duquesne and the LL.B. from the University of Pittsburgh. He began his law career in 1957 with the U.S. Department of Justice, worked with the NAACP from 1959 to 1966, returned to the federal government for two years as deputy director of the Office of Civil Rights, spent a year as executive director of the Western Center on Law and Poverty at Southern California, then began teaching at Harvard in 1969. He left a professorship at Harvard in*

*1981 to become law dean at the University of Oregon, but returned to Harvard in 1986.*

*their talking about their dominance, and that currently is not socially acceptable discourse."*

I'm not sure I agree with that. First, some white males are defending us and themselves adopting narrative formats. I come at it the other way: I do use narrative because in this business of scholarship I am not theoretical, I am a proselytizer. The evil, racism, is something that I know about, that I've experienced, and that I want to write about. That's why I came into teaching. And for me the use of narrative enables me to do that with a greater degree of freedom.

As I said earlier, I chose not to write that Foreword in the traditional way because it just didn't seem to me that to rely on doctrine and development and review of cases was going to convey what I knew and what I thought I knew about race. Narrative enabled me to expand.

And another advantage of narrative is that it sets up a situation in which the reader can back off a little and not feel so personally confronted. The reader may agree, or may not agree. Either way, he's seeing this as story, and observing it from outside the frame. And therefore I think you can use illustrations that are fantastical to illustrate, and I think illustrate more effectively, that which you believe is real but not much accepted.

*I want to continue that footnote of Johnson's:*

*"Also to emphasize their dominance and dominant position would demonstrate that the meritocracy they believe in is not really a true meritocracy, but rather a system providing them with built-in advantages."*

I don't know. It may well be that at some level dominance has something to do with it. But I think the dominance is taken for granted. You don't even have to think about it. It's there. I don't think about it, you don't think about it. We just understand what is.

In retrospect, the "easy" hurdle for the storytellers was getting published; the more difficult barrier has been getting their work accepted by the academy as "scholarship." And it is scholarship that determines success in the academic world: if accepted as scholarship, storytelling will satisfy criteria for promotion and tenure, and become a credential of academic status. Even more significantly, the controversy calls into question the central assumption of the "meritocratic" model for evaluating legal scholarship—the existence of objective criteria for determining "merit."

The contesting arguments are exploding in the journals, making this the hot topic of the 1990s in legal education. It is not a black vs. white issue; in fact, academics of color

have taken different positions. Bell's followers contend that storytelling is a distinctive people-of-color form of scholarship that provides the academy with a different and unique perspective: "Legal storytelling is an engine built to hurl rocks over walls of social complacency that obscure the new view from the citadel. But the rocks all have messages tied to them that the defenders cannot help but read." On the other side Professor Randall Kennedy, a black colleague of Bell's at Harvard Law School, counters: "Stated bluntly, [the storytellers] fail to support persuasively their claims of race exclusion or their claims that legal academic scholars of color produce a racially distinctive brand of valuable scholarship."

*The mainstream, traditional, conventional notion of scholarship is that you have to be objective. Doctrinal pieces are analytical and objective; they're written in neutral terms. The question I pose to you is: Has this been a rationalization, a way to keep color out of the mainstream of scholarship, and out of the academy?*

I doubt it. I don't think there has been any conspiracy. It seems to me that people just tend to preserve the status quo because that's what feels comfortable. If you have always assumed that objectivity is to be valued, and subjectivity is to be eschewed, that takes on a life of its own.

*Is the professor of color, male or female, forever doomed to outsider status in the academy, in scholarship?*

I don't think that we can come in out of the cold in scholarship until we can come in out of the cold in society. And the thrust of my new book, *Fires at the Bottom of the Well*, subtitled *The Permanence of Racism*, is that the present order so serves this country in terms of stability and protection of the status quo, that it's hard for me to imagine how this nation could survive without blacks as scapegoats and the "other" against whom whites of widely disparate incomes and ideologies can unite.

*Well, if that is the case, then we can't expect the narrative form of scholarship ever to reach parity with the old established forms of writing.*

I never even dreamed that was going to occur.

*That surprises me. You never thought that narrative would EVER reach parity with other forms of scholarship? That eventually it would achieve the status of the doctrinal, conventional article, and therefore be a factor in promotion and tenure or even in salary increase?*

That's a different thing. I think it can be a factor in hiring in promotion, in what have you. But I can't imagine it having parity.

*Let me ask you the reverse of that. Could it be used against professor?*

Oh I think that's already happened. I think that does happen. But this is not unique to legal scholarship. Look at modern music. I tried to make this point in a memo I once sent to the Harvard faculty. (I could do a book on my efforts over the years!) I said, I have a new insight as to why there's so much resistance to this new writing that some of us are trying to do. It's very much like music that's new, and not familiar. Now I came to understand and appreciate 20th-century music because my brother was a music student. He would play Hindemith and Stravinsky. At first it seemed crazy, but after a while I could understand it. Now Bartok my favorite composer. But a lot of people hear Bartok or Hindemith and they're ready to walk out. So we still program all this 19th-century stuff. And I said that the faculty—or some of them—might be like the audiences v

continue to prefer Brahms and Beethoven. But that if there is no leeway for new music, new writing, then we can't move ahead. You don't have to like everything new that comes along, but at least you have to have some tolerance.

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Now there is a lot of controversy over storytelling, and we have a number of articles for and against it, and an inordinate amount of dialogue, but the fact of the matter is, there is not all that much storytelling. And yet some people get awfully upset about it. The mere suggestion that storytelling is a form of legal scholarship will cause many traditionalists to gnash their teeth and hyperventilate. Storytelling is "different," it is not "law," it is not objective, and it does not deal with "facts." Worst of all, it is too "easy" to write; you can turn out a narrative over the weekend between beers and mowing the lawn. Or can you?

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*Is storytelling more difficult than doctrinal scholarship, or is it easier, or is there any basic difference?*

I think it varies. For instance, I gave a talk down in New Orleans that I wanted to be a story, but I realized I was just so pressured with so many things that I didn't have time to translate the points into story form. In that way I think storytelling is more difficult. But then sometimes I get an idea for a story in the shower, or jogging, and it's a natural—it just falls into place. Still, on the whole I think it's probably easier to set everything out in the traditional way.

*You mean the doctrinal article is easier to write? It requires less real thought, less depth?*

Yes, because there is the creative part. I guess there's some creativity in trying to balance out and review the points that have to be made in a traditional law article. But there is more creativity in trying to make those points within a story that people will—and can—read as a story. One of the things I wanted to do when I wrote *And We Are Not Saved* was to make law accessible to people who don't know anything about law but at the same time keep the interest of those who do know an awful lot about law. That's a very big, hard thing to do.

*Are there any novelists or fiction writers that you have learned from? Who have influenced your style? Your product?*

No, but then I don't find time to read much fiction. I like good fiction. I enjoy it. But I don't see it as a model. I don't see myself as a novelist or really a fiction writer. All I try to do is tell the story as effectively as I can and hope my editor will clean it up.

*Let me ask you about the legal storytellers. Have you read the article by Frances Ansley in California Law Review? What she does is describe the reactions and responses of her students who keep diaries in her course. I suppose that's a type of storytelling because she's putting together this image of student reaction and thoughts.*

We were talking earlier about the value of narrative as a teaching tool. It's marvelous. I mean I never have problems with students reading the assignment if it's a *Chronicle*. And the way I have them respond to that is by writing their own essays. It often is not so much story but experiential facts.

*You assign those on a regular basis?*

Every week. In fact, there's a piece in 37 *UCLA Law Review* called "Racial Reflections" that I co-edited with two students. The whole article is made up of these short two-page essays that we selected, edited, and put into categories. It's among the things I'm most proud of, because it indicates that there is a potential for scholarship within the classroom

setting. That students have through their own experience a potential for adding to the weight of knowledge.

*Have you had any negative reaction on your narrative form from anyone, your colleagues, for example? You've had positive reactions. Have you had any negative?*

Mostly they just don't pay any attention to it. I've heard from very few people on the Harvard faculty. But that's a Harvard phenomenon. I never will forget a letter I got from Archie Cox, who for me is the quintessential Harvard law professor. He'd done the Watergate thing and he'd taken a year off and he was in England. And it was at that time that I wrote to the dean and sent copies to all the faculty, reminding them that when I was hired, I'd been promised that although I was the first black I would not be the last. And saying that I had tried everything, but the school was still running just the way it always had been, and so this was going to be my last year. Archie wrote back and said I understand how you feel, I hope you'll stay. He said, I know that in all my years there I never felt anybody gave a damn about me. I've never forgotten that. If even Archie Cox feels the coldness, the alienation, it's the nature of that place.

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In 1988 Professor Bell co-authored a report on the state of affirmative action at Harvard University. It was not the typical academic report, replete with boring statistics, long-winded syntax, and self-serving conclusions. Instead, Bell submitted a story—"The Final Report: Harvard's Affirmative Action Allegory."

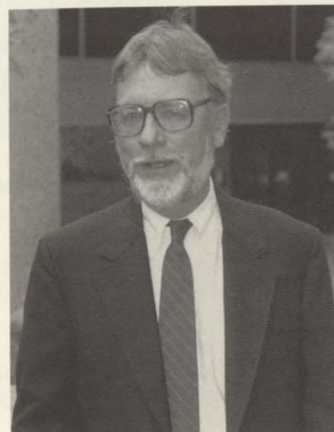
The Allegory demonstrates the versatility and punch of storytelling. The punch comes in the first paragraph when we learn that an "earth-shaking explosion" has killed the president of Harvard and every one of the 198 black teachers and administrator employed there. Having quickly grabbed the reader's attention, Bell then gives a narrative account of the events that preceded the explosion.

If Professor Bell wanted to attract attention, he was successful. The Report became a topic of controversy at Harvard and was reported in the media, including the *New York Times*. One can only imagine what Derek Bok, the president of Harvard, thought when he received a "report" of his demise.

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*The memo that you sent to the Harvard administration on the explosion—how did you get that idea?*

I had become, at the urging of this friend of mine who was an administrator, co-chair of the Association of Black Faculty and Administrators. We decided we really wanted to do something. We met with the deans, we prepared summaries of the conversations, we had all this data. And the year ran out. There was not time to get the report out.



*A longtime (since 1968) member of the CWRU law faculty, Arthur Austin made his name as a scholar in the field of antitrust law but more recently has studied and written on juries. His latest interest is legal scholarship per se; see, for example, "A Primer on Deconstruction's Rhapsody of World-Plays," soon to be published in the North Carolina Law Review. Next spring he will teach a new course—Trends and Tensions: Critical Legal Studies, Feminism, and Critical Race Studies.*



So over the summer I'm thinking, what kind of report can we put together that's not just going to go into the basket. And that's how I came to write that story. I put in everything that ordinarily we would put in a report. The first task was getting the black faculty and administrators to approve it. I mean, it was very tough. But the other co-chair really pushed and got their approval. And so we published it.

Derek Bok was not pleased. So we went to meet with him. And he said, "What were you trying to do?" And I said: "We were trying to help you get this affirmative action thing up on the agenda for discussion." And he said: "Well, you don't have to blow me up." Kind of missed the whole point.

Bell sees the race issue as a question of power. The white-male establishment has it, the blacks and other minorities want it. *The Chronicles of the Space Traders* dramatizes his point by showing that no one EVER gives up power voluntarily.

In the year 2000, one thousand space ships suddenly appear off the Atlantic coast. They have come not to conquer, but to trade with an economically beleaguered United States. They offer gold, critical chemicals, and safe nuclear technology—in exchange for all African Americans! Despite some hesitation, a constitutional amendment making the trade possible is ratified by a 70 percent vote, and the exchange is made. "And just as the forced importation of those African ancestors had made the nation wealthy and productivity possible, so their forced exodus

saved the country from the need to pay the price of its greed-based excess."

*The Space Traders* is a rather despairing story. Once again society makes its usual choice.

*But it's perfectly within the context of your power thesis.*

That's absolutely right. And the reaction it gets from a black audience is one of recognition. They break into laughter and applause. This is just exactly what they believe would happen. One time a black kid got up and said, "There's no doubt that they would accept the offer. There would be one-third who would want to get rid of the blacks, and another third who probably didn't but who couldn't pass up a good deal."

Whites tend to be very depressed by the story. They acknowledge only reluctantly that this could happen. I read the story once at Allegheny College. Earlier there was a fancy dinner with the president and the trustees. One of the trustees was a fellow from Pittsburgh, a very successful industrialist; we had a good time. Then in the auditorium he was sitting right in the front row and I could watch his face as I read. When I asked at the end, as I generally did in those days, how many people thought the vote really would come out as it did, to send the blacks off, he sat there and he sat there. And then . . . very slowly . . . his hand went up.

I think that illustrates the power of a story.

## Editors of the Journals

The law school's three student-edited journals have named new editorial boards for 1992-93.

Peter Mason is editor in chief of the *Journal of International Law*. Mason majored in music performance at Northwestern University and freelanced as a French horn player for two years before entering law school. His legal employment has included a research assistantship with the American Bar Foundation, a 1991 summer clerkship in Washington with Storch & Brenner, and—most recently—a Ford Foundation Fellowship with the International Commission of Jurists, working in Geneva, Switzerland.

Others on the *JIL* board are Cynthia Rayak, managing editor; Sarah Moore and Holly Osterland, executive editors; articles editors Thomas Horwitz, Karen Lindquist, Jeanne Marshall, Parrish McCormack, and Stephanie Robinson; Richard Krumbain, executive notes editor; Vincent Brotski and Wayne Hettenbach, notes editors; and Karen Evans, solicitations and topic development editor.

The *Law Review's* editor in chief is Dominique Cone, a 1987 mathematics graduate of Dartmouth College.

Between college and law school she was a marketing representative for Bandgap Technology Corporation, manager of business development for an analytical laboratory in the mining industry. She spent this summer in Colorado, her home state, with the Denver firm of Gorsuch, Kirgis, Campbell, Walker & Grover.

Alan Yarcusko is the *Law Review's* managing editor, and Steven Berger the publisher. Articles editors are Thaddeus Bereday, Cynthia Dollar, Jeffrey Hickman, Anthony Kaye, Kimberly Mack, Ramon Madrigal, Marilyn Sonnie, Jennifer Treadsay, Susan Williams, and Martha Young. Lisa Kainec, Anne Austin, Jill Dickey, and Halle Fine are the contributing editors. Notes editors are Michael Griffaton, Deborah Brown, Mary Cavanaugh, Kris Creagan, LaVonne Dye, Kathleen Mara, Roberta Steele, James Vollins, and Andrew Zashin.

Elizabeth Gioiosa, editor in chief of *Health Matrix*, graduated from Tufts University in 1985 and worked for



*Editors of the journals: Dominique Cone, Law Review; Peter Mason, Journal of International Law; Elizabeth Gioiosa, Health Matrix.*

five years, principally in the area of human resources, before starting law school. She continues to have an interest in employment law and labor law, as well as in health law. During the summer she worked as a research assistant for Professor Robert Lawry.

Assisting Gioiosa are Orly Hazony, managing editor; Jennifer Johnston, solicitations and topics development editor; executive editors Scott Baldwin, Julie Bretz, and Mariel Harris; and senior editors Meera Krishnan and Jennifer Martin.

# Helping Haitians Seek Asylum

by Michael J. Ryan '92\*

Rarely do law students get to use the skills learned in law school to make the difference between life and death. But a group of students from CWRU had just such an opportunity last spring when we traveled to Florida to help Haitian refugees seeking political asylum.

During our mid-March spring break, nineteen students volunteered at the Haitian Refugee Center in Miami, along with a 1990 graduate, Paula Klausner, and Jonathan Gordon, an instructor in the Research, Analysis, and Writing program. The HRC is a nonprofit organization that has been dedicated for the past decade to the legal representation of Haitians in the Miami area. Our work for the HRC was to help Haitian refugees complete applications for political asylum.

As everyone knows, there has been a mass exodus from Haiti since the coup in September, 1991, that ousted the freely elected government of Jean Bertrand Aristide. During the past year the military rulers now in power have targeted virtually everyone who has ever worked in Haiti for positive social change: church workers, organizers of seed banks for farmers, people who have launched literacy campaigns, community workers who have tried to improve sanitation, and—of course—Aristide's supporters. Amnesty International has estimated that hundreds were executed and more than 200,000 went into hiding immediately following the coup.

Although no one knows how many have fled Haiti, as of this writing at least 37,000 have been interdicted by the U.S. Coast Guard (see the *New York Times*, June 5, 1992, at A8). The interdiction program stems from a 1981 agreement between the Reagan administration and the Duvalier regime which then ruled Haiti. The agreement permits the U.S. to stop and board Haitian flagged vessels in international waters, to interrogate those on board to determine their status and the vessel's destination, and then forcibly to return anyone who may be traveling to the U.S. for an illegal purpose. Although the agreement specifically provides an exception for those seeking refugee status, this protection is being ignored by the current administration.

Until just recently, the interdiction program focused on identifying those with a legitimate claim to political asylum, i.e., those who could demonstrate, in the words of the Immigration and Nationality Act, a "well-founded fear of persecution based on race, religion, nationality, membership in a social group or political opinion." Those

Haitians judged to have a legitimate claim to asylum have been "screened in" and permitted to proceed to Miami in order to file an application. Of the 37,000 interdicted thus far, more than 26,000 have been forcibly returned into the hands of the military regime. Only some 10,000 have been screened in to the U.S.

And now the Bush administration has refocused the interdiction program by forcibly returning all those interdicted—without hearings, without judicial review, without access to counsel. As of this date (in June) 12,000 remain at Guantanamo Bay, Cuba, awaiting an opportunity to complete their applications for political asylum. Only recently has legal counsel even been permitted access to these people.

CWRU's Haitian project was organized by the law school's chapter of the National Lawyers Guild. Also donating their time in Miami, independent of the CWRU project, were students from the Columbia and Yale law schools. In total, there were 35 to 40 law students at the Haitian Refugee Center during the week of March 16. In the following week six more students came from the University of Pittsburgh as a result of contacts by CWRU students.

Our project had its beginnings in late January with a



phone call that I made to the Haitian Refugee Center. I had read in the *New York Times* about the work of HRC, and I had been moved by the pictures of refugees being forcibly returned to a country that they had fled, in desperation, over dangerous waters in small, overcrowded boats. When I called, I knew nothing of political asylum, the goals of HRC, or the history of Haiti. I simply asked them, "As a third-year law student in Cleveland, can I help in any way?" HRC's Sharon Brown responded,

\*Mary-Beth Moylan '94 also contributed to the article. Moylan succeeds Ryan in 1992-93 as president of the CWRU chapter of the National Lawyers Guild.

"Come to Miami and work on political asylum applications."

I spoke with Mary-Beth Moylan '94, and Ned Banda '93, both members of the National Lawyers Guild, and we agreed that it would be a great trip over our spring break. As I spoke with others, I realized that there was tremendous interest among faculty, staff, and students. But we faced a number of obstacles, mainly training and financing the students. I knew that if we could provide them with the skills and the resources, the students would respond immediately. I thought we might get as many as six or eight student volunteers! Never did I imagine that we would have, in the end, twenty-one people from CWRU.

The first step was developing a training program. I approached Professor Peter Joy '77, who directs the Law School Clinic and who has volunteered his own services in past years to immigrants seeking asylum. He was happy to advise, and together we developed a three-step training plan. The first step would familiarize the students with the social and political landscape in Haiti. Because this project dealt specifically with political repression and violence, I knew that the volunteers would have to know about the political "players" in Haiti. I asked William G. O'Neill, deputy director of the Lawyers Committee for Human Rights, if he might be able to come and speak to the school; he agreed without hesitation. After his appearance as the primary speaker in a panel discussion, student interest became even greater.

The next step was to familiarize the students with the general principles of immigration law. Peter Joy called Professor Steven Lazarus at the Cleveland-Marshall College of Law, and he agreed to teach an immigration law seminar.

Finally, and most important, we needed to ensure that the students could complete the political asylum applications. For this, Professor Joy prepared materials specifically on the political asylum process and then led the students through the applications and issues. In addition to Peter Joy's vast experience, the students also benefited from the work and advice of David Leopold '85, who inspired us by sharing his experiences with the political asylum applications of Soviet Jews. We began to sense the importance of having legal assistance in the political asylum process, and we began to believe that we could make a difference.

For each of the three steps of training, special materials were



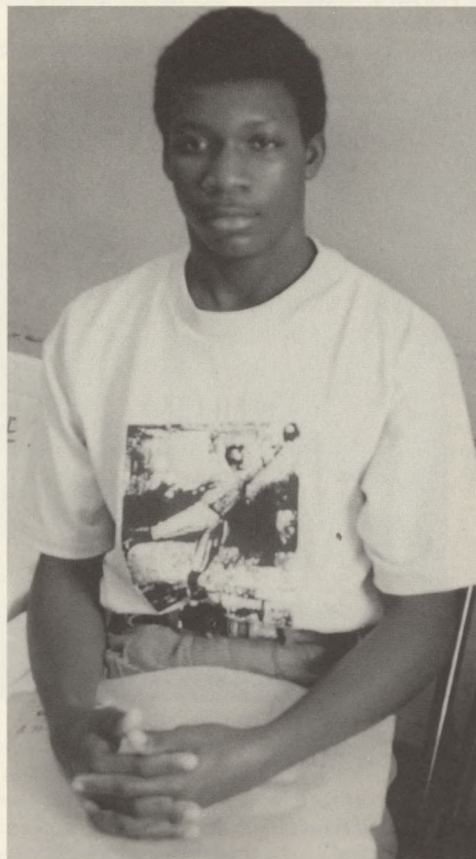
Deborah Peters and Lauren Litton, both '94, interview a client with a translator's assistance.

compiled from many different sources; these materials would later be sent to all other law schools interested in working at HRC.

If training was the first hurdle, the second was financing the trip. Here we had help from Professor Sidney Picker, director of the Gund Foundation International Law Center, and Kenneth Klothen, a member of the adjunct faculty and director of Children's Rights International. Professor Picker, through the International Law Center, provided the most important funding—the first dollars. Then, with Kenneth Klothen's network of connections and his grant-seeking experience, we were able to raise enough money to cover all student expenses—transportation, housing, and food. We also had support and assistance from Deans Peter Gerhart and JoAnne Jackson, and from faculty members Lewis Katz, Jonathan Gordon, and Robert Strassfeld.

Most of the students left Cleveland on Friday, March 13, travelling by car and staying overnight at the houses of friends and relatives along the way. We met at the University of Miami Saturday night for a National Lawyers Guild forum on Haiti. Sunday morning we had a final training workshop at the Haitian Refugee Center.

Of the number of Haitians screened in (about 10,000), HRC and other local organizations expect to represent 4,000 to 6,000. But with only two attorneys on the twelve-person staff, HRC had no realistic hope of completing applications for these clients. The application process is labor-intensive, requiring anywhere from three to six hours per applicant. At that rate, it would take more than five years to complete all the applications.



***"No immigrant has ever shown more courage, compassion, or initiative, than the Haitians I met."***

Before the student volunteers arrived, HRC was conducting about three to eight interviews each day. But during the week of March 16 the students from CWRU, Columbia, and Yale, with the help of translators, completed about thirty-five interviews every day.

In addition to the interviews at HRC, Mary-Beth Moylan and I were able to travel to the maximum security facility of the Immigration and Naturalization Service—the Krome Avenue Detention Center. HRC does not have the resources to represent the Haitians imprisoned at Krome, but the overwhelming student response—and the students' insistence that Krome be included in the project—made it possible for us to go there. And the fruits of our trip to Krome were immediate: the one asylum seeker I interviewed there has been granted political asylum, and we walked out from behind the prison wall together.

That case brought home to me the value of legal assistance in the field of immigration. Its importance is dramatic because of the language differences and the high stakes for anyone seeking asylum. It has been estimated that "aliens are three times more likely to receive asylum in an exclusion or deportation hearing, and twice as likely to [succeed] in an affirmative asylum claim when represented by counsel" (*Haitian Centers Council v. McNary*, 1992 U.S. Dist. LEXIS 3940, 18). The person I interviewed at Krome had filed a political asylum application pro se and was scheduled to go before an immigration judge that afternoon, when HRC sought a continuance and I went to evaluate his case. The application that he had completed with the help of a language teacher at Krome did not receive a favorable response from the State Department. But the new application that we presented as supplementary evidence, after I interviewed the client for about eight hours, did result in a favorable recommendation by the State Department. Although the INS trial attorney argued vigorously against that recommendation, the client's HRC attorneys were able to win asylum for him.

The students who volunteered for the project included males and females, whites and blacks, and people of differing backgrounds and political persuasions. But we all left Miami greatly affected and impassioned. The hours



***"In the faces of the Haitian asylum seekers in Miami, I saw the hopes and dreams of my grandparents."***

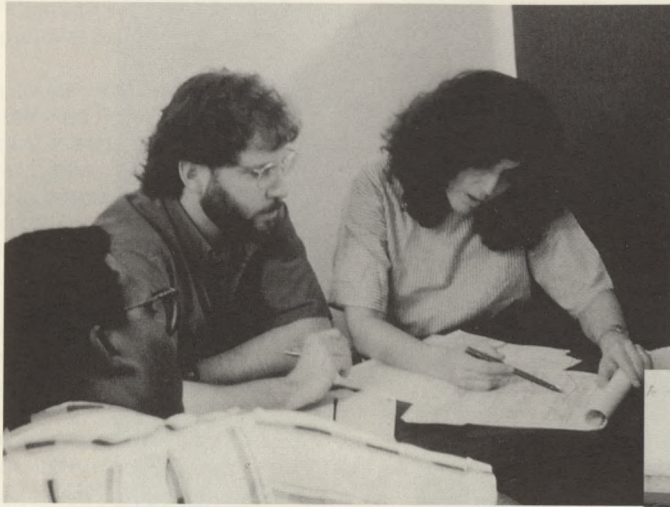
were long and emotionally draining, and there was little recovery time; many students returned to Cleveland late Saturday night and were back in classes Monday morning.

The effect of the experience on each of us comes through in the student comments compiled afterwards. Rae Brough '92 wrote: "The week I spent working at HRC was the most profound challenge of my law school career. . . . Nothing could have prepared me for the stories that these victims would tell." Tamara Ross '94 asked, "How can one not be affected by the stories of persons beaten, threatened, and killed? How can one not be affected by stories of persons who believed that they had a greater chance facing the wrath of the sea than they did facing the military?" We all developed a sense of what courage it takes to flee one's country, leaving family and friends behind. As James Piotrowski '94 said, "No immigrant has ever shown more courage, compassion, or initiative, than the Haitians I met."

For some of us, the plight of the Haitians fell close to home. Steve Weigler '92 drew parallels to the boatloads of Jews who fled Nazi Germany only to be forcibly returned—and subsequently executed. For me personally, because I am a first-generation American raised with three adopted Vietnamese-born sisters, my dedication to this project had much to do with my own family. In the faces of the Haitian asylum seekers in Miami, I saw the hopes and dreams of my grandparents, parents,



*A client and a translator have back to camera. The student attorneys are Charlotte Buford '92 and James Piotrowski '94.*



The interviewers are a husband/wife team: Jonathan Gordon and Paula Klausner '90.

and sisters. As Lauren Litton '94 summed it up, "I realized human blood is being shed in Haiti and tears were being cast not only for the loss of loved ones, but also for the loss of the fleeting freedom and democracy that was experienced and savored."

Though we had the satisfaction of knowing that our work made a difference, there was also a sense of frustration. "I saw how powerless any one person or group of thirty-odd students was to make any real change in this election year, when poor, black immigrants from Haiti just aren't an 'important enough' campaign issue," said Charlotte Buford '92.

Our law school received national attention for our initiative in this project. We were featured on ABC World News Tonight, CNN, AP and UPI wire services, as well as countless local newspaper and television stories. The success of our spring break trip made it possible for us to launch a national project for the summer aimed at bringing legal workers, lawyers, and students from all around the nation to Miami.



Furthermore, it's not just CWRU. More than 200 law students, representing some 20 law schools, have spent a week in Miami this summer helping the Haitians. To my mind, there has been nothing like it since the Freedom Summer in Mississippi in 1964.

We hope to continue the project as long as Haitians need our help. To do so, we must ask your help. If you are interested in participating, or contributing, or assisting in any way, either in Miami or in your own community, please call the CWRU National Lawyers Guild at 216/368-3319.



About the author: Mike Ryan, shown at left with ABC News personnel, was graduated from the law school in May with an extraordinary collection of honors: summa cum laude, Student of the Year, the Society of Benchers Award, the Martin Luther King Award ("to a student who, in the judgment of classmates, follows in character and conduct the spirit of the Reverend Martin Luther King, Jr."), the Paul J. Hergenroeder Award in Trial Tactics, the Jonathan M. Ault Mock Trial Prize. He returned to Florida, his home state, to continue the Haitian legal services project and, beginning in September, to clerk for Judge Kenneth L. Ryskamp, U.S. District Court, S.D. Florida.

# Commencement 1992

Sunday, May 24, was that most glorious of days on the academic calendar—Commencement Day. The law school proudly conferred J.D. degrees on 210 May graduates. Included in the festivities were the 2 graduates of August 1991 and the 10 of January 1992.

There were 8 graduates with highest honors (*summa cum laude*, requiring a grade point average of 3.9 or better):

Lisa Babish Forbes  
Susan Rae Gornik  
Laurie Fisher Humphrey  
Candace M. Jones  
Scott Elliott Jordan  
Mary Brabenec Percifull  
Michael Joseph Ryan  
Eileen Marie Scanlon  
Jeffrey Carl Schwarz

Fourteen graduated with high honors (*magna cum laude*):

Sharon J. Badertscher  
Wendy Hope Berkowitz  
John Russell Chlysta  
Kevin Charles Clegg  
Karen Margaret Coblentz  
Anne T. Corrigan  
Valeri Margaret Furst

Katharine Elizabeth Mason  
Adele Merenstein  
Lawrence Frederick Peskin  
Mary Elizabeth Sweeney  
Victoria Lyne Wendling  
Donald Patrick Wynne

Together the *summa* and *magna* graduates make up the top ten percent of the class—the group elected to the Order of the Coif.

Twelve members of the class of 1992 were elected to the Order of Barristers, a national honorary society that recognizes excellence in advocacy and overall contribution to moot court and advocacy programs:

Andrea Ridgway Barter  
Susan Veronica Belanger  
Laura Ann Elizabeth Blue  
William Alan Celebrezze  
Andrew R. Kass  
Michael L. Larson  
Kirk Lamont Perry  
Thomas Edward Posch  
Hedy Mercedes Schuster  
Michele Ann Smolin  
Lisa Marie Wilmot  
Katherine Ann Zimmerman

Most winners of individual awards are pictured on the pages following. Not pictured, however, are:

James Kanski, winner in 1991 of the Nathan Burkan Award, presented by the American Society of Composers, Authors, and Publishers.

Michael Albright, winner of the Heiss Labor Law Award.

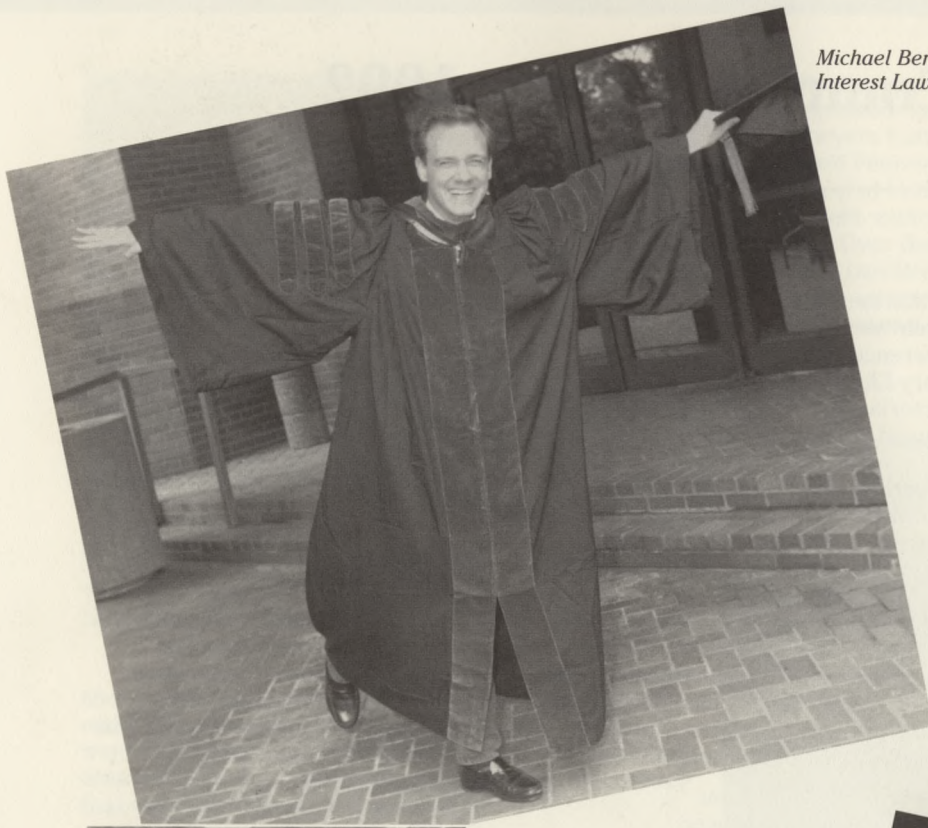
Kevin Adler and Robert Druzisky, two of the winners of the Petersilge Award for excellence in the law of wills and trusts. Adler also won second place in the 1992 Stanley and Hope Adelstein Competition in environmental law.



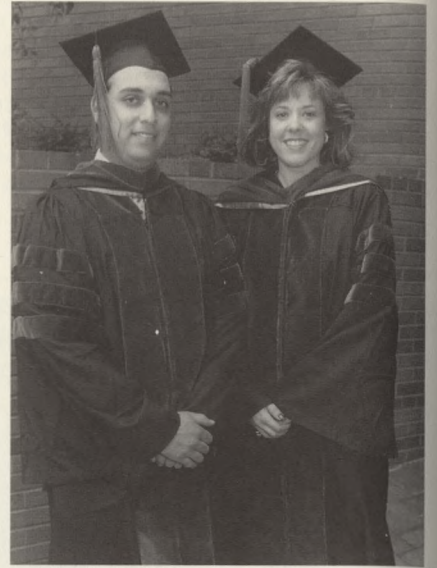
The three winners of the Paul J. Hergenroeder Award in Trial Tactics: Kathryn Melaragno, Sharon Badertscher, and Michael Ryan. Ryan also won the Martin Luther King and Society of Benchers awards and was named Student of the Year. See his article, "Helping Haitians," on page 7.



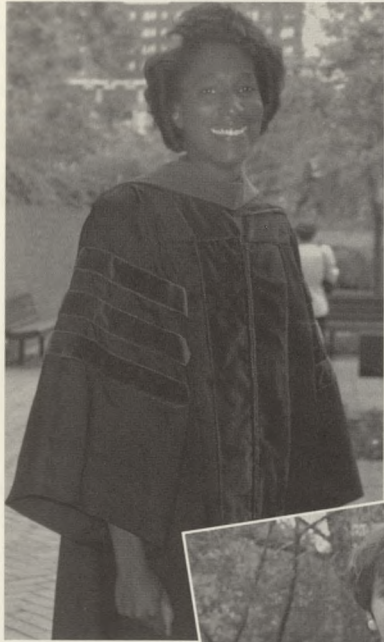
Candace Jones, Outstanding Woman Law Graduate—an award presented by the National Association of Women Lawyers. Jones also was a winner of the Petersilge Award for excellence in the law of wills and trusts; earlier in her career she won the Shelley Halpern Memorial Award as the highest-ranking student at the end of the first year of law school.



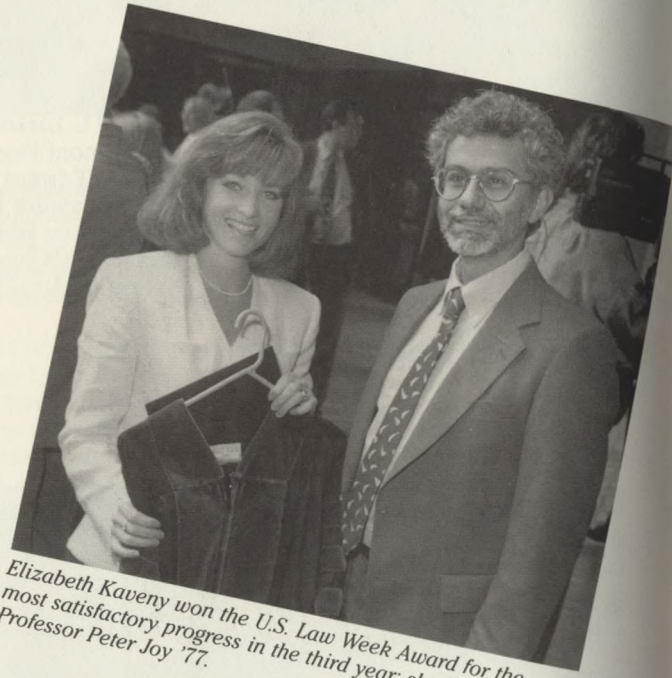
*Michael Benza, winner of the Saul S. Biskind Public Interest Law Fellowship.*



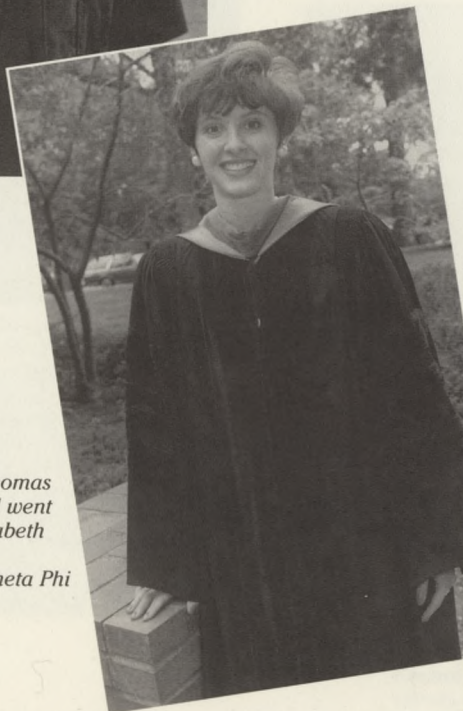
*James Contini, the runner-up, and Valeri Furst, winner of the Banks-Baldwin Clinical Program Award.*



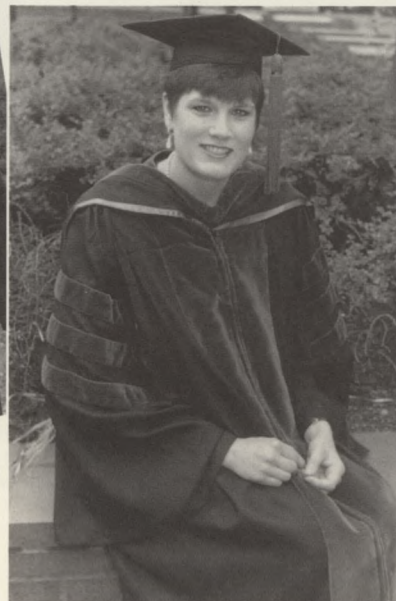
*Charlotte Buford won the John Wragg Kellogg Award as the highest-ranking minority student after the first year of law school.*



*Elizabeth Kavery won the U.S. Law Week Award for the most satisfactory progress in the third year; she is with Professor Peter Joy '77.*



*The William H. Thomas Foundation Award went to Laura Ann Elizabeth Blue as the most deserving Delta Theta Phi graduate.*



*Mary Brabene Percifull was one of the winners of the Arthur E. Petersilge Award for excellence in wills and trusts; in 1991 she was second-place winner of the Nathan Burkan Award, given by the American Society of Composers, Authors, and Publishers for an essay on copyright law.*



*Susan Rae Gornik won the Sherman S. Hollander Award, presented by the Cuyahoga County Bar Association to the top student in Real Estate Transactions and Finance.*



*Joanne Castellanos was a 1991 winner of the Petersilge Award for excellence in the law of wills and trusts.*



*In 1991 Jacqueline Kurtz won the Stanley and Hope Adelstein Award in environmental law.*



*Kirk Perry was on wheels because of a leg injury sustained in the infamous Phlegm Snopes Basketball Tournament. Dean Peter Gerhart descended from the stage of Severance Hall to present his diploma to him.*



*For an essay on tort law Henry William Smith III won the Theodore T. Sindell Award in 1991.*



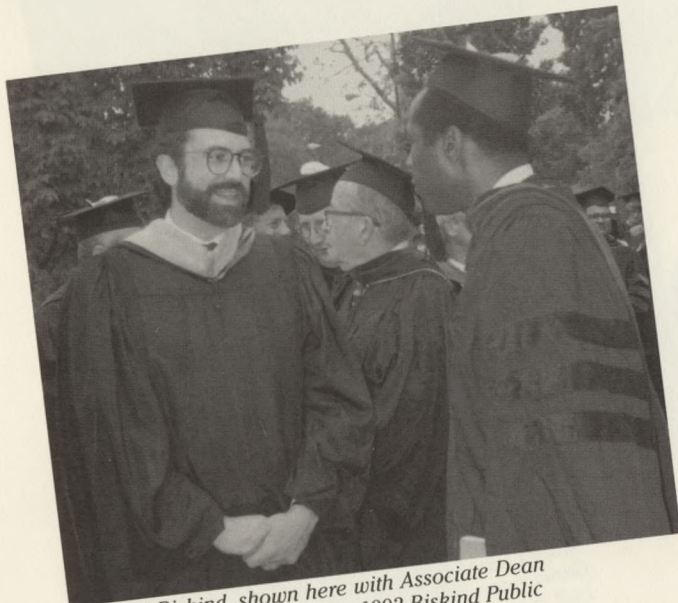
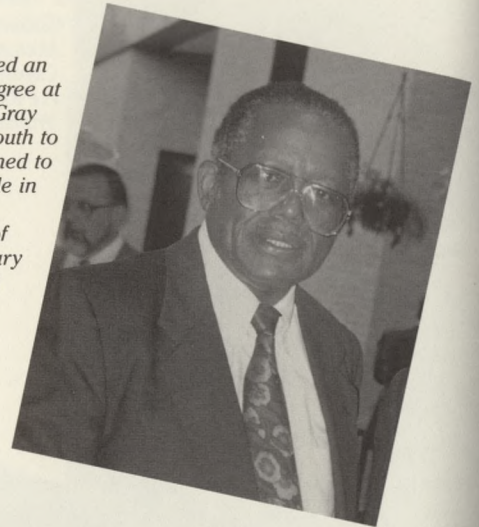
*The International Academy of Trial Lawyers recognized three students for excellence in trial advocacy: Lawrence Peskin, Susan Baker, James Lopez.*





Thomas Posch shared the 1992 Sindell Tort Law Prize with Michael Griffaton '93.

Fred D. Gray '54 was awarded an honorary Doctor of Laws degree at the university convocation. Gray came from the segregated South to gain a law degree and returned to Alabama to play a major role in the civil rights movement, beginning with his defense of Rosa Parks, the now-legendary woman who refused to yield her seat on a city bus.



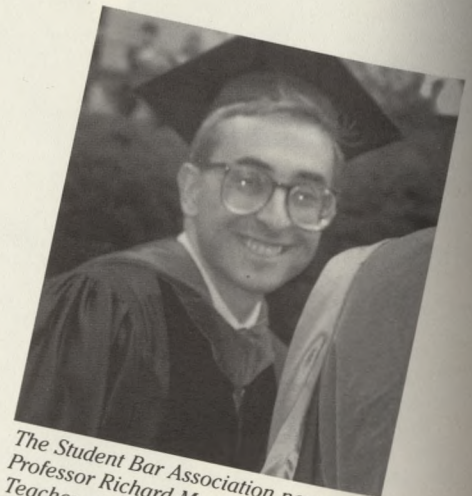
Edward Biskind, shown here with Associate Dean Calvin Sharpe, presented the 1992 Biskind Public Interest Law Fellowship.



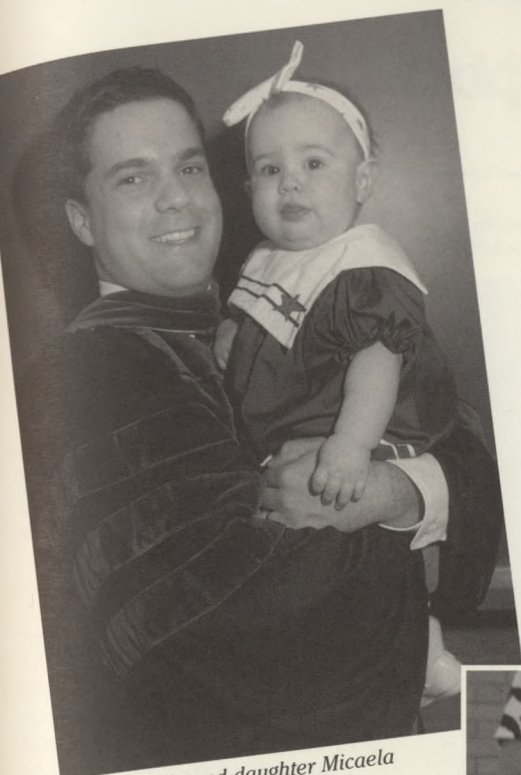
U.S. Congressman Dennis Eckart was the featured speaker at the law school exercises, ably filling in at the last minute for William Kunstler. Elizabeth Kelley '93, president of the Student Bar Association, led the law procession.



Three persons without whom the law school commencement could not happen: Phil Moses, whose inadequate official title is "building superintendent"; Betty Harris, registrar; and Dennis Jenks, assistant to the registrar. Jenks was named Administrator of the Year by the Student Bar Association.



The Student Bar Association named Professor Richard Myers the Teacher of the Year.



John Castele and daughter Micaela



Michele Schaefer Hardman and daughter Katie. Michele wins the Comeback of the Year Award: she started out with the Class of 1987.

John McKenzie '92 with his grandparents, Mr. ('28) and Mrs. John G. Rowley.



Muthin Munyantwali, one of an increasing number of international students.

## Alumni Weekend Fast Approaches!

This is a last-minute reminder: There may still be time to make your reservations for the 1992 Law Alumni Weekend, Friday and Saturday, September 18 and 19.

All CWRU law alumni are invited to begin the festivities with cocktails at the Gwinn Estate in Bratenahl that Friday evening, 6 to 8 o'clock. Saturday morning at 11 we will break ground at Gund Hall for the building addition, and the Alumni Awards Luncheon will follow at 12 noon. Saturday evening, from 5 to 7, you can drop in on a reception at Gund Hall hosted by the Black Law Students Association, then party with one of the reunion classes—1942, 1947, 1952, . . . 1987. The reunions will be in different locations around the city and suburbs; all

the reunion classes would welcome friends who graduated just a little earlier or just a little later.

For information about any or all of the above, write or call the law school's Office of External Affairs, 216/368-3860.

For those who want to mix business with their pleasure, there are opportunities for continuing legal education. A daylong Friday program will be led by Professor Wilbur C. Leatherberry '68. Professors Morris G. Shanker and Robert P. Lawry will each offer a two-hour session on Saturday. For further information on CLE, the number to call is 216/368-6363.

# Class of 1992 Placement Report

## (as of August 1, 1992)

The list below shows the placement of 1992 graduates—to the best of our knowledge. We welcome corrections and additions. Write or call the Office of External Affairs, 216/368-3860.

**David D. Archinal**

Ernst & Young  
Cleveland, Ohio

**Elise Hara Auvil**

Legal Aid Society  
Philadelphia, Pennsylvania

**Susan E. Baker**

Critchfield, Critchfield &  
Johnston  
Wooster, Ohio

**Solomon F. Balraj**

City Law Department  
Cleveland, Ohio

**Stewart A. Binke**

Hill Lewis  
Lansing, Michigan

**Cathleen M. Bolek**

Spangenberg, Shibley, Traci &  
Lancione  
Cleveland, Ohio

**George D. Callard**

Multimedia Broadcasting, Inc.  
Wichita, Kansas

**Susan Belanger Cavanagh**

Arter & Hadden  
Cleveland, Ohio

**Kevin C. Clegg**

Pope & John  
Chicago, Illinois

**John P. Conomy**

Cleveland Clinic  
Cleveland, Ohio

**James F. Contini II**

Day, Ketterer, Raley, Wright &  
Rybolt  
Canton, Ohio

**Anne T. Corrigan**

Porter, Wright, Morris &  
Arthur  
Cleveland, Ohio

**Joseph J. Cusimano III**

Esther S. Weissman Company  
Cleveland, Ohio

**Brian W. Danaher**

Danaher & Associates  
North Canton, Ohio

**Jayadeep T. Deshmukh**

Frost & Jacobs  
Cincinnati, Ohio

**Blake A. Dickson**

Climaco, Climaco, Seminatore  
Lefkowitz & Garofoli  
Cleveland, Ohio

**G. Todd Downs**

Hahn Loeser & Parks  
Cleveland, Ohio

**Peter S. Ecklund**

Axe & Associates  
Grosse Pointe Farms, Michigan

**Wayne H. Elowe**

Gottlieb & Schwartz  
Chicago, Illinois

**Robert S. Faxon**

Jones, Day, Reavis & Pogue  
Cleveland, Ohio

**Lisa Babish Forbes**

Judge Frank Battisti  
U.S. District Court  
Cleveland, Ohio

**Sharon R. Freimuth**

Century Products Company  
Macedonia, Ohio

**Valeri M. Furst**

Squire, Sanders & Dempsey  
Cleveland, Ohio

**Michael Gardner**

Ulmer & Berne  
Cleveland, Ohio

**J. David Goodman**

Judge George Smith  
U.S. District Court  
Columbus, Ohio

**Susan R. Gornik**

Judge Michael S. Kanne  
Indiana Court of Appeals  
LaFayette, Indiana

**Constance M. Greaney**

Attorney General's Office  
Columbus, Ohio

**Robert S. Gurwin**

Julian Kahan & Associates  
Cleveland, Ohio

**Matthew H. Herndon**

Verrill & Dana  
Portland, Maine

**Laurie F. Humphrey**

Jones, Day, Reavis & Pogue  
Chicago, Illinois

**Candace M. Jones**

Hahn Loeser & Parks  
Cleveland, Ohio

**Scott E. Jordan**

Rudnick & Wolfe  
Chicago, Illinois

**Christopher P. Keller**

Williams & Brierton  
Johnston, Pennsylvania

**Laura F. Kenney**

Judge John M. Manos  
U.S. District Court  
Cleveland, Ohio

**Michael W. Kier**

Pope & John  
Chicago, Illinois

**Christopher C. Koehler**

Thompson, Hine & Flory  
Cleveland, Ohio

**Jacqueline S. Kurtz**

Office of Attorney General  
Columbus, Ohio

**Jay C. Marcie**

Warhola, O'Toole, Loughman,  
Alderman & Stumphauzer  
Lorain, Ohio

**John W. McKenzie**

Buckingham, Doolittle &  
Burroughs  
Akron, Ohio

**Kathryn J. Melaragno**

Quinn, Buseck, Leemhuis,  
Kroto & Toohey  
Erie, Pennsylvania

**Robert S. Melson**

Internal Revenue Service  
Washington, D.C.

**Michelle L. Moats**

TRW, Inc.  
Cleveland, Ohio

**Andrew F. Moore**

Wicata & Crosby  
Cleveland, Ohio

**Michelle M. Pepin**

Baker & Hostetler  
Columbus, Ohio

**Lawrence F. Peskin**

Ulmer & Berne  
Cleveland, Ohio

**Scott C. Peters**

Means, Bichimer,  
Burkholder & Baker  
Cleveland, Ohio

**Karen D. Pfister**

Crabbe, Brown, Jones,  
Potts & Schmidt  
Columbus, Ohio

**Richard J. Rudolph**

Cavitch, Familo & Durken  
Cleveland, Ohio

**Michael J. Ryan**

Judge Kenneth L. Ryskamp  
U.S. District Court  
Miami, Florida

**Eileen M. Scanlon**

Judge Harry Aesia  
U.S. District Court  
Chicago, Illinois

**Hedy M. Schuster**

David O. Simon, LPA  
Cleveland, Ohio

**Jeffrey C. Schwarz**

McDonald, Hopkins,  
Burke & Haber  
Cleveland, Ohio

**H. William Smith III**

Thorp, Reed & Armstrong  
Pittsburgh, Pennsylvania

**Ronald K. Starkey**

Timothy A. Chimko &  
Associates  
Cleveland, Ohio

**Susan J. Steinle**

Gottlieb & Schwartz  
Chicago, Illinois

**Mary E. Sweeney**

Jones, Day, Reavis & Pogue  
Cleveland, Ohio

**Rebecca B. Thai**

U.S. Department of Justice  
Antitrust Division  
Cleveland, Ohio

**Matthew P. Utecht**

Haynsworth, Marion,  
McKay & Guerard  
Greenville, South Carolina

**Scott A. Vogelmeier**

Judge Gregory L. Frost  
Court of Common Pleas  
Newark, Ohio

**S. Peter Voudouris**

University Hospitals  
Cleveland, Ohio

**Victoria L. Wendling**

Arter & Hadden  
Cleveland, Ohio

**Theresa A. Wohlgenuth**

Bernard, Haffey & Bohnert  
Lyndhurst, Ohio

**Katherine A. Zimmerman**

McDonald, Hopkins,  
Burke & Haber  
Cleveland, Ohio

**Jeffrey D. Zimon**

Schwarzwald & Rock  
Cleveland, Ohio

**Jill M. Zimon**

Kronenberg & Kronenberg  
Cleveland, Ohio



# 1992 Dunmore Results

The 1992 Dunmore Moot Court Tournament, culmination of the year-long competition, concluded on April 11, too late for the results to make the May *In Brief*. That evening Lara Johnson took the championship, defeating Cari Fusco. Judges were David S. Perelman '58, magistrate of the U.S. District Court in Cleveland, and Cuyahoga County Common Pleas judges Lillian J. Greene '74 and Burt W. Griffin.

Johnson also was named best oral advocate in the competition. Susan Bronston took the Dean's Brief-Writing Award and the Dean Dunmore Award as best overall. David Cole was named the most improved advocate.



*Cari Fusco, runner-up in the Dunmore Tournament.*

Tournament runner-up Cari Fusco comes from Hopedale, Ohio, and majored in chemistry at Muskingum College. She has held summer clerkships with two Cleveland firms—Calfee, Halter & Griswold in 1991, and Buckley, King & Bluso in 1992.



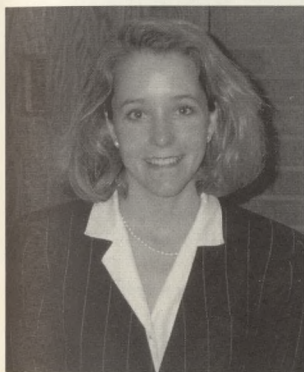
*David Cole, judged the most improved advocate.*

David Cole, a Clevelander, took his B.A. degree at the University of Colorado, then worked with Heritage Sports as an account executive before entering law school. He spent the summer in the Cuyahoga County Prosecutor's Office.

Others in the final "sweet sixteen" were Michael Anderton, Deborah Beckerich, LuAnn Hoover, Elizabeth Kelley, Kimberly Klimczak, Peter Korte, Amy Martin, Lisa Namay, Peter Siegel, Eric Smearman, James Valecko, and Elizabeth Wright.

The interscholastic teams for 1992-93 were chosen from among the Dunmore finalists. The National Team consists of Bronston, Fusco, Johnson, Martin, Siegel, and Wright. Anderton, Cole, Klimczak and Valecko make up the Niagara Team; and Smearman, Kelley, and Hoover will compete in the Craven competition in constitutional law.

This year's Moot Court Board is chaired by Michael Benoit. Michele Dinn is directing the Dunmore Competition, assisted by Deborah Beckerich and Craig Caggiano. Sue Urbanowicz has charge of the Niagara Tournament.



*Lara Johnson was the winner of the Dunmore Competition's concluding tournament.*

A graduate of McGill University, Johnson is a practiced debater. She took fifth place in the U.S. High School Debating Tournament in 1985, and in 1988 was among the top sixteen in the World Debating Tournament held in Sydney, Australia. She spent this summer in her home state, Oregon, clerking with the Portland firm of Bullivant, Houser, Bailey, Pendergrass & Hoffman.



*Susan Bronston was judged the best brief writer and best overall.*

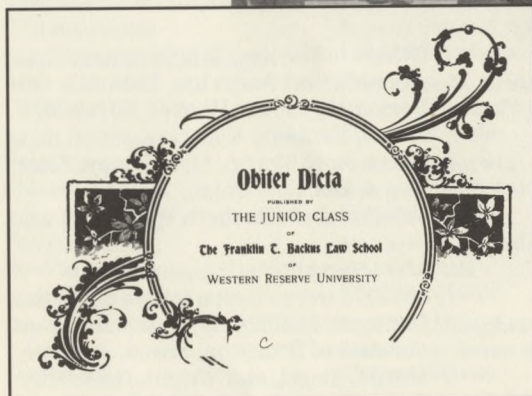
Susan Bronston, a graduate of Howard University, is from Dayton, Ohio. She divided the summer between study abroad at Oxford University and a clerkship with a Cleveland firm.



*Judges of the Dunmore Final Round: Burt Griffin and Lillian Greene '74 of the Cuyahoga County Court of Common Pleas and U.S. Magistrate David Perelman '58.*

# Obiter Dicta

Collectors know that the rarest and most valuable treasures from the past are often objects that in their day were cheap and ordinary—so common, so unimportant, that no one ever thought to save them for posterity. Probably that is why only a single copy survives in our university archives of a little law school yearbook, *Obiter Dicta*, that must have been



CLASS OF '00.

illustrations by William Orin Mathews '98, here reproduced.

It also included . . . yells! We learn that the colors of our law school are

“crimson and white,” and

this is the school’s official Yell:

L-E-X RAH, RAH! RAH, RAH!

L-E-X, RAH, RAH!

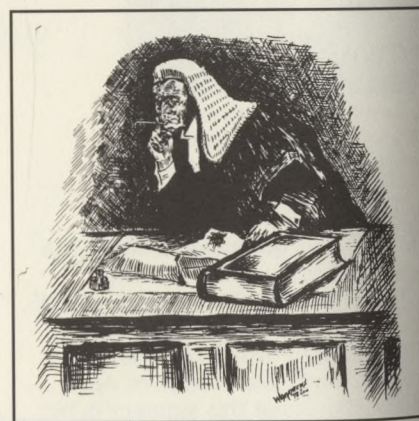
WHO!—RAH! WHO!—RAH!

LAW SCHOOL, LAW SCHOOL,

RAH! RAH! RAH!

Furthermore, each class had its own color and its own special yell. “Pale white” was the color of the Senior Class (which leads us to suspect that there was something not-quite-serious about the whole business).

Here is the Senior Yell, and note the subtle reference to the upcoming bar exam:



CO! LUM! BUS!

CAN'T, FLUNK, US!

BACKUS! LAW SCHOOL!

WESTERN RESERVE!

The Class of 1899 declared its color to be “bright red.” Here is the Junior Yell:

NINETY-NINE! NINETY-NINE!

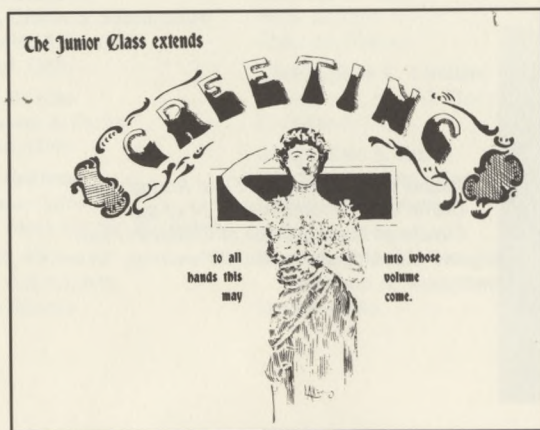
WHO-RAH-WHO!

LAW SCHOOL, LAW SCHOOL,

W. R. U.

published for at least a few years around the turn of the century.

This particular volume was published by the Class of 1899, then the law school’s Junior Class, which extended greetings on the frontispiece “to all into whose hands this volume may come”—and by extension, we believe, to readers of this page. It included attractive



And here is our favorite—the Freshman Yell of the Class of 1900. Picture them waving “bottle green” pennants.

SIS! BOOM! AH!  
OH, MAM—MA!  
NAUGHT NAUGHT! NAUGHTY  
NAUGHT!  
BACKUS, LAW!

If only we knew on what occasions (if any) the yells were actually yelled! At



some intramural sporting event between the School of Law and the equally young and brash School of Dentistry? At a morning assembly?

At a 10 p.m. study break in the library? At the beginning of each final examination—or at the end? At commencement? At a bar swearing-in ceremony?

If anyone has further information on these unresolved questions, please communicate with the law school immediately. Even more important: Do you know where we might find other copies of *Obiter Dicta*?

—K.E.T.

## Annual Fund Goals: \$640,000 & 100%

by *Ivan L. Otto '62*  
*Chairman, 1993 Annual Fund*

As the law school's centennial year begins, so does the 1992-93 Law Centennial Annual Fund. In this milestone year we are placing even greater emphasis on the Annual Fund Campaign. Let's celebrate 100 years by striving for 100 percent participation.

I'm delighted to report that the Annual Fund is off to a splendid start, with a commitment of \$50,000 from John J. Conway '42 in honor of his class's 50-year anniversary. Many, many thanks to John!

Your gift to the Centennial Annual Fund supports the programs that we remember from our own law school

experience—such as Moot Court and the Law Review—and also supports the exciting new programs that are assuring us a place in the first rank of the nation's law schools. As our law school's reputation grows, so does the value of our law degree. As we help the coming generation of law students, we also help ourselves.

The dollar goal is \$640,000, and with your help we can get there. I look forward to chairing the fund in this centennial year, and to working with the class agents and other advocates for the Annual Fund. One of us will be in touch with you soon—probably in the week of September 21. When the call comes, please respond generously.



*Ivan Otto, chair of the 1993 Annual Fund, is a former president of the Law Alumni Association and a longtime Annual Fund volunteer. A partner in the Cleveland firm of Squire,*

*Sanders & Dempsey, which he joined on his graduation from law school, Otto specializes in municipal and public law and is known for his expertise in financing and in such other areas of public concern as zoning, planning, taxation, and pollution abatement. His principal community activities have been through his church: he is treasurer of the Catholic Charities Corporation of the Cleveland Diocese.*

## Campaign Notes

by *Daniel T. Clancy '62*  
*Associate Dean for External Affairs*

The last issue of *In Brief* reported the untimely, tragic death of Virginia Rini Mitchell '90, who was a passenger (with her husband) on the US Air flight from New York to Cleveland that crashed in March. Now a committee of friends and classmates has organized to establish an endowment fund in Gini Mitchell's memory. Members are Cindy Lammert Alexander, Katherine A. Friedell, Paula S. Klausner, Sandra R. Lewis, Onee Bergfeld Lowe, David T. Matia, Jr., T. David Mitchell (Gini's son), Jack G. A. Vitale, and Michael W. Wise.

While Gini participated as a student in many activities that would merit support by the Virginia Mitchell Memorial Fund—the Clinic, the Mock Trial Program, the Student Bar Association, Moot Court, Second-Career Students, the Student Public Interest Law Fellowship—the consen-

sus of the committee's first meeting was that the fund should provide financial assistance to third-year second-career students with demonstrated need. The committee urges all those who knew Gini and who cherish her memory to consider a gift in her name to the law school.

Beginning in the mid-1980s, law firms and practitioners in Northeast Ohio have contributed funds to the law school for “merit scholarships”—full-tuition scholarships awarded to applicants with the very highest qualifications. This year graduates who have held those scholarships made special contributions to the fund, led by chairpersons Laura Goretta '86 and Timothy McDonald '90. Every class since 1985 had a special class agent for this program: Bret Treier '85, Anthony Konkoly '86, Elizabeth Dellinger '87, Mark Lindsay '88, Adam Hall '89, Amanda Haiduc '90, and Neil Kinkopf '91. We are

pleased to announce that in this first year of the fund the scholarship graduates gave nearly \$2,500. The law school—and the students who will benefit—say Thank You.

With great pleasure we announce a gift of \$107,000 from Franklyn S. Judson—and Nancy, his wife—to establish a scholarship fund named in honor of his law class: the Class of 1940 Scholarship Fund. Frank is a Clevelander by birth and now for forty years a resident of Philadelphia, retired from the I-T-E Imperial Corporation. As a student in the Depression era, he worked in the law library, held a Ranney Scholarship, and stayed on for a year after graduation as law librarian. He has said, “I've always appreciated the way the law school took me in when I was penniless, and then helped me again on the way out.”

# Two New Faculty

## Andrew P. Morriss

Growing up in southern New Jersey, Andy Morriss set his educational sights on Princeton University's Woodrow Wilson School of Public and International Affairs, where he concentrated in economic policy and



received his B.A. degree in 1981. There he also met his future wife, a Texan named Carol Akers.

When Akers went back to Texas to pursue a degree in veterinary medicine, Morriss decided to continue his own education at the University of Texas in Austin. With one foot in the law school and the other in the Lyndon B. Johnson School of Public Affairs, he completed two degrees—J.D. and Master of Public Affairs—in December, 1984.

"A big part of the LBJ curriculum," Morriss told *In Brief*, "is the yearlong research projects." His first-year project involved an international conference on acid rain and industrial pollution. "It was a great experience," he said—"an off-the-record conference, and important people came." The class papers became a book, *Acid Rain and Friendly Neighbors*, published in 1985 by Duke University Press. Another research project involved pesticides and led to Morriss's master's report: "Information Use and State Regulation of Pesticides."

During 1985-86 Morriss held a year's clerkship with Barefoot Sanders, legendary judge (and now chief judge) of the U.S. District Court in Dallas. Morriss praises Sanders as "a tremendous judge" who "decides cases quickly and fairly" and who "made an effort to have his clerks involved in everything." It was, he says, "a fantastic year—the best job I'll ever have."

At the end of that year, when most of the clerks went on to big law firms and big salaries, Sanders' two clerks took another direction: one became a public defender, and Morriss took a job with Texas Rural Legal Aid. He worked for TRLA's Farm Worker Division, first in Hereford and then in Plainview, up in the Texas Panhandle. "It was a migrant program," he explains. "It was all employment-related—minimum wage suits, suits under the Agricultural Worker Protection Act, civil rights." For Morriss it meant "a good chance to learn a lot and get responsibility quickly. I had my own federal lawsuits—cases with 500 plaintiffs that were all mine. Just two years out of law school, I got to argue a case in the Fifth Circuit."

It was great professionally, but less great personally: "The Panhandle doesn't welcome legal aid lawyers. It was impossible for my wife to find a job there." Morriss and Akers decided to move on.

For an interim year and a half, Morriss returned to the District Court in Dallas as a clerk to Magistrates William Sanderson and John Tolle, and Akers practiced as a veterinarian in nearby Corsicana. In 1989 they moved to Boston and Morriss enrolled as a graduate student at the Massachusetts Institute of Technology. He will receive his Ph.D. in economics in 1993.

His major fields of study have been labor economics and industrial organization (minors: econometrics and "alternative approaches—a catchall field"). His dissertation is on "The Law and Economics of Being Fired." He describes it as "an economic analysis of the legal institutions governing the firing of employees in union and non-union sectors—grievance arbitration in the union sector, and employment at will in the non-union."

Morriss hopes to continue that line of inquiry in the next few years: "I'd like to keep focused on the legal institutions surrounding employment, the resolution of conflicts between employers and employees. Eventually I'd like to extend that to comparative work."

This fall Morriss is teaching Employment Law. In the spring he will teach

Law and Economics, plus a course in the Department of Economics.

Andy Morriss says that he and his wife are delighted to be moving to Cleveland, Ohio. Akers used to spend summers here with relatives (who are still in town). Another attraction, it turns out, is that Ohio has an extraordinary number of old-time merry-go-rounds. Three-year-old Kathleen has a passion for them, and her indulgent parents plan to visit every single one.

## Wendy Elizabeth Wagner

Wendy Wagner attributes her early interest in the environment to 1) her parents, "nature freaks" who took her on vacation trips to "pretty places," and 2) the dismal condition of the ecosystem in the northwest corner of Indiana, where she grew up. At age seven, she told *In Brief*, she bought a



water test kit in order to figure out why her tadpoles died when she turned them loose in the Little Calumet River.

She majored in biology at Hanover College and went on to Yale University's School of Forestry and Environmental Studies for a master's degree. She says: "I was interested in nature, but I was also an activist. I wanted to know why things were the way they were, and I wanted to make them better. When I did field work during the summers, I told people I wanted to be Secretary of the Interior. Everyone said, 'For that you need a law degree.'" When she finished her master's in 1984, she entered the Yale law school. There, interestingly enough, she made a point of not taking courses in environmental law. "I thought, I'll be doing environmental law for the rest of my life. Why start now?"

The move from Hanover College to Yale University had been something of a culture shock—from a “sweet, friendly, easy-going place” to a setting where “people actually studied every Saturday night.” Politically it was a shock too, since “the people in southern Indiana tended to be quite conservative.” It was fortunate, she thinks, that she had two years of political adjustment at the School of Forestry instead of leaping straight from Hanover College to Yale Law School.

After law school it was culture shock in reverse: to Grand Rapids, Michigan, to clerk for Sixth Circuit Judge Albert Engel. She summarizes that year as “a pretty quiet life—writing, reading, thinking.” It was wonderful, she says, to get “knee deep in law,” and it was excellent training for a future litigator, but it was quiet; she envied the more frenetic pace of the clerks in the District Court. Finding her social life in Grand Rapids as monastic as her work as a clerk, she filled her time with “ten different kinds of lessons.” She tried acting and spinning, bowling and running, and devoted hours to clarinet practice.

Preparing for the bar exam was an eye-opener for Wagner: “It made me think that law was not what I wanted to do with my life.” Though she had a job waiting for her at the U.S. Department of Justice, she also arranged to enter a Ph.D. program in environmental sciences at the University of Virginia—“a foot in academia in case I didn’t enjoy the law job.” She expected that ten years hence she would have left the law, finished a Ph.D., and started a career as a law-and-science teacher of undergraduates.

As a trial attorney in the Enforcement Section of the Environment and Natural Resources Division, Wagner spent two and a half years as “a sort of civil prosecutor,” bringing suits under the Superfund statute. “I was lucky,” she says, “in getting a lot of litigation experience. I got to be first chair in my first and probably my last trial, in the Eastern District of Missouri.” But she had mixed feelings about her cases. On the one hand, there were the companies that had irresponsibly dumped toxic wastes all over the place. On the other hand, there were “pathetic old farmers who had no money, who had allowed someone else to store waste oil on their property twenty years ago, which now turned out to be PCB-contaminated.” Instead of black and white she was seeing shades of gray, and all too often she was representing what seemed to her the darker of two shades.

In the spring of 1991 she moved to a newly created position in the Department of Agriculture. She explains: “Under the Superfund statute, there are five federal agencies that act as trustees over natural resources. One is the Forest Service, which is within the Department of Agriculture. For Forest Service resources that are adversely affected by hazardous substances, the Forest Service can sue the responsible parties both for restoration and for lost-use values.” In this new position, Wagner coordinates all the department’s pollution control matters, including enforcement actions. “What I do now is a lot of client counseling and building up the referrals that go to the Department of Justice.”

When she took the new job, she said that it would be for not much more than a year: she wanted to finish her Ph.D. Then her adviser at Virginia died of cancer, suddenly and prematurely. Wagner says that his death, at age 49, helped her decide that if teaching was what she really wanted to do “eventually,” she should do it now. She put the Ph.D. on indefinite hold and put herself in the law teaching market.

“I did it all wrong,” she says with a laugh. “I had no clue. I just signed up and paid my money and went to the AALS ‘meat market’ in November. I didn’t call my old school, I didn’t get the right kind of help. But it turned out great in spite of my ignorance. I visited Case, and I liked the school. I was delighted when I got the early offer—I felt a special kind of fit with Case that I didn’t experience at the other schools.”

Wagner’s husband, Mike Walker, will remain in Washington for the time being. He is a management consultant with a specialized focus on city and local governments. Since his employer’s parent company has an office in Cleveland, Wagner expects that “he will be able to shift his base in a year or two.” Until then they will meet on the weekends—probably in Washington, to begin with, because Walker is “a big Redskins fan” who will have to be gradually converted.

Wagner will teach a Torts section in the fall. In the spring she will teach Environmental Law. She will also be working with an interdisciplinary seminar on lead in the urban environment, organized by a neurologist, Norman Robbins, in the School of Medicine. Wagner is particularly excited about this project, which will involve teachers and students from many academic areas, plus persons

from the Cleveland community. “At Virginia,” she says, “I was alarmed to see scientists with no interest in law. But here’s someone who wants to pull people from different fields together. I think this is just the beginning. Norman Robbins has ideas for the next hundred years.”

—K.E.T.

Our two new faculty appointments represent two related thrusts of our plan for the 90s. The first is to continue developing strong relationships with other departments of the university; the second is to broaden the intellectual and interdisciplinary base of the faculty. With her strong background in environmental sciences, Wendy Wagner will be a resource for faculty and students on all issues where law and science intersect. Moreover, she will help us strengthen our ties with our colleagues in the basic sciences and the environmental health sciences, who can provide us with broader perspectives in our educational program and scholarship. Indeed, when you combine Ms. Wagner’s background in science with Paul Giannelli’s expertise in scientific evidence and the work of the faculty in our Law-Medicine Center, you can begin to see emerging a comprehensive law and science center at our law school. Given the strengths of our university, we ought to be a leader in understanding the relationship between science and the law.

Andrew Morriss’s background as an economist, and his joint appointment with the Department of Economics of the Weatherhead School of Management, will similarly increase our capacity to understand, and build on, the relationship between economic analysis and legal policy. This is important because of the large number of our faculty who use economic analysis as one of the lenses through which they approach legal issues. It is also important because it gives us a direct tie-in with the law and economics movement, one of the most potent intellectual movements of the last two decades.

—Dean Peter M. Gerhart



# ILC Update

by **Sidney I. Picker, Jr.**  
*Professor of Law*

As the Gund Foundation International Law Center enters its second year of operations, we are proud of the first year's successes and delighted with the prospects for the year ahead.

Our Judge Ben C. Green Lectureship Series, inaugurated last year with such visitors as Dr. Yelena Bonner, will continue in 1992-93 with an equally exciting array of speakers. The highlight will be a three-day visit in March by Stephen Schwebel, the U.S. judge on the International Court of Justice, which sits in the Netherlands (The Hague). The World Court, as it is commonly called, includes just fifteen judges; none has visited the law school or Cleveland before. Judge Schwebel will give a public lecture and two other talks, one to faculty and one to students. Other speakers already confirmed as Green Lecturers are Jane Bradley, deputy U.S. trade representative, Washington, D.C., and Amelia Porges, counsellor for the General Agreement on Tariffs and Trade, Geneva.

Even more significant, perhaps, is the list of distinguished visiting faculty and adjunct faculty who will be teaching in our regular J.D. program. For the first time, our adjunct faculty includes Washington policy makers—not just one, but three. Elizabeth Rindskopf, general counsel of the Central Intelligence Agency, will teach a weekly seminar on National Security Law; William Holbein, U.S. secretary of the Canada-U.S. Free Trade Agreement's binational secretariat, will similarly commute to teach another new course, Harmonization and Regional Agreements; and William Holder, deputy general counsel of the International Monetary Fund, will spend two weeks here and offer an intensive series of lectures on the IMF as part of two long-established courses—International Organizations, and International Trade and Development. International Organizations will be taught by B. A. Boczek, professor of political science at Kent State University, who holds law degrees from Jagiellonian University in Poland in addition to a Harvard Ph.D.

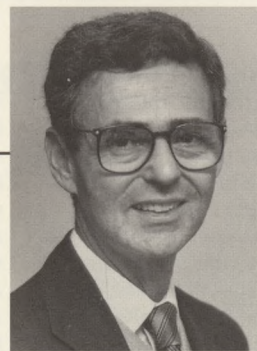
Petar Sarcevic, who was introduced to you in the May *In Brief*, is continuing for another year as our John D. Drinko/Baker & Hostetler Visiting Professor and is joined, for the fall semester, by Visiting Professors Paul Volken of the University of Fribourg

(Switzerland) and Giovanni Bognetti of the University of Milan. Professor Sarcevic, who is on leave from Rijeka University in Croatia, will teach Comparative Law, as he did last spring, and a new course, European Community Law; Professor Volken will teach European Community Procedural Law. Professor Bognetti, a regular visitor over the years at our law school, will join Professor Ted Mearns in teaching Comparative Constitutional Law.

Our long association with Nanni Bognetti is paying an extra dividend: when he returns to Italy for the spring semester, he will be our on-site director for a study-abroad program at the University of Milan. As you know, we have had a student exchange program for many years with the University of Western Ontario in Canada, and in fact we are increasing this year by 50 percent the number of students who will take part in it. It is the model for our Italian program and for the other new exchange programs that we expect to establish in Europe and other parts of the world. For students who wish to spend next spring in Milan, fluency in Italian will be a requirement; but I am happy to report that our student body these days includes a certain number of linguistically eligible students.

For students who prefer to spend a summer abroad, we expect to offer a limited number of externships for the summer between the second and third years of law school. Students will work with law firms and/or government agencies abroad—and some of them—with firms and agencies in this country that focus on international activity. For the 1993 summer we hope to have externships in London, Brussels, Prague, St. Petersburg, and Volgograd. On occasion we expect to arrange an externship abroad for a graduating student; this year Michael Benza '92, with the assistance of the Saul S. Biskind Public Interest Fellowship, is in Johannesburg with South Africa's only public interest nonprofit law firm, the Legal Resources Centre.

As we send our own students to other countries, we have established a new LL.M. program that will bring foreigners here. Our LL.M. in U.S. Legal Studies is designed for foreign lawyers interested in understanding American common law and the U.S. legal processes that affect transnational business activity. The one-year program includes the opportunity for LL.M. candidates to work in Cleveland area law firms under an internship arrange-



*Professor Sidney I. Picker, Jr., the founding executive director of the Gund Foundation International Law Center, is stepping down as director but will continue in his teaching role.*

*Said Dean Peter Gerhart: "Professor Picker has performed valuable service to this law school by creating the infrastructure—the 'platform'—on which our international programs will flourish. He will, of course, remain deeply involved in the development of the International Law Center. As we broaden faculty participation in international programs, we should not forget that through the Canada/U.S. Law Institute, the Journal of International Law, and the initial activities of the Gund Foundation International Law Center, Professor Picker was there first and charted a splendid course."*

ment. Professor Lewis Katz is directing the program this year, and I hope that a future issue of *In Brief* will carry his report on its beginnings.

I have saved for last an especially exciting new development: along with Cleveland State University's College of Law, the Ohio judiciary, and the Cleveland Bar Association, we are exploring the possibility of an academic joint venture with Russia, specifically with attorneys and law schools in Volgograd and St. Petersburg. This summer I spent ten days of planning and discussing in Russia, along with Professor Jane Picker (my wife) of Cleveland State University and Common Pleas Judge Burt Griffin, representing the Cleveland bar.

The Russian exchange programs, to be phased in over a period of years, will begin with a series of guest lectures and visits by bar representatives and faculty of all participating law schools. This fall we will host visitors from St. Petersburg and Volgograd; next spring some of our faculty will visit Russia. As we get to know each other, we will progress to four-week training sessions for Russian students and lawyers on Law and Market Forces and summer programs for our students and American lawyers on the Russian legal process and legal problems of doing business with Russia. Eventually we should have a full-scale series of faculty and student exchanges, graduate programs, and advanced continuing legal education.

Although I have enjoyed my year as the first executive director of the International Law Center and am happy to have played a key part in

getting the center up and running, I am giving up the management of the ILC and returning this fall to full-time teaching. I am particularly looking forward to developing a new course, Global Perspectives, for first-year students, and to inaugurating the exchange programs with Russia and other CIS countries.

My thanks to everyone who gave me and the new center such vital support this year: members of the Society of International Law Students, who did everything from poster painting to airport pickups; my colleagues, especially the effervescent Lew Katz, whose spirit could sustain an elephant in a canoe; law school alumni;

and members of the bench and bar in and around Cleveland, including the Greater Cleveland International Lawyers Group. I will assure whoever or whatever succeeds me that a wonderfully supportive group of students, alumni, and friends can be called on for assistance.

## Working with CEELI: One Lawyer's International Initiative

by *Randall R. Reade '87*

Although the former Soviet Union and its satellites have recently done away with communism, full democracy and free markets have not been easy to establish, especially in those countries that have never experienced such institutions. Ideas that we take for granted in the West, such as the rule of law and an independent judiciary, have been unknown there or have been scorned as "bourgeois." Now that these countries are attempting to enter the mainstream of Western trade and culture, they find that they lack the legal framework that would promote economic development and individual rights. Establishing the rule of law—so basic a part of our own cultural fabric—is for them an urgent priority.

To help them, the American Bar Association and some other public and private organizations have established a coalition known as CEELI—the Central and East European Law Initiative. I have been involved with CEELI for the past year, and I welcomed *In Brief's* invitation to share some of this experience.

CEELI makes U.S. legal expertise and assistance available, in a variety of ways, to countries that are in the process of modifying or restructuring their legal systems. It has become overwhelmingly clear that these countries welcome—in fact, urgently seek—the help that American legal experience can provide. CEELI's premise is that lasting economic and political reform are dependent on one another, and both depend on a sound legal structure.

CEELI operates by sending teams of judges and legal experts to engage in workshops in the host country on a particular topic, such as criminal or trade law. In CEELI's first workshop, held in Prague in November of 1990, the chief justice of Czechoslovakia's Supreme Court started the proceedings with a haunting tale of the room's

history. He described how, since 1956, hundreds of Czechoslovaks had been sentenced to death and more than 29,000 had been sent to prison for "political crimes." "The spirit of justice," he said, "had been driven from this room, replaced with an indescribable sense of terror. It is my greatest wish," he continued, "that your visit will be the first step in returning the rule of law to this room."

CEELI's workshops—formally known as Legal Assistance Workshops—have been its most effective contribution. Workshops have explored particular substantive or structural topics in detail, have presented case studies or the differing experiences of other countries, have assisted in the drafting or the implementing of general statutes, and have addressed typical administrative problems. For example, CEELI has helped draft the Law of Courts and Judges for Yugoslavia; the constitutions of Romania, Bulgaria, and Albania; and criminal law revision in the Czech and Slovak Republic. Currently CEELI is working on a joint project with the World Bank to provide a legal framework for a private sector development. In addition, CEELI has established a program which supplies U.S. legal experts for extended visits.

CEELI has assured its credibility by adopting strict conflict-of-interest guidelines. It is clearly responsive to the needs of the restructuring countries, and not driven by the needs of U.S. participants or sponsors.

Not surprisingly, CEELI's efforts to strengthen legal systems in the formerly communist countries have included efforts to help their law schools. When the deans of various law schools in Eastern Europe expressed concern that their ability



*The author with three visiting law deans from Eastern Europe: Valentinas Mikelenas, University of Vilnius, Lithuania; Leszek Leszczynski, Marie-Curie-Klodowskiej University, Poland; Randy Reade; Walter Schultz, University of Latvia.*

to reach a new generation of law students was hampered by a lack of resources, even including textbooks, and a paucity of legal experts who could teach the laws necessary for democracies, CEELI responded by establishing a Sister Law Schools Program. This unites eighteen law schools in Eastern Europe with fifty-four U.S. law schools, including Case Western Reserve. Last year I helped CEELI organize a visit of some of the Eastern European law school deans; this project brought Professor Andrzej Balaban, vice dean of Szczecin University Faculty of Law in Poland, to CWRU for several days.

The European law deans spent two days in Washington, D.C., meeting with various government officials including Justice Sandra Day O'Connor, before setting off on a three-week tour to visit their various sister law schools. At a reception at the Polish embassy, I got a chance to speak with a few of the deans about their needs and what they hope to accomplish on their U.S. tour. The dean from Latvia said that for years their instructors had to teach subjects such as Marxist Dialectics, Marxist Economics, and other socialist principles. Although they have some basic knowledge of contract law and constitutional law, they are ill-equipped to teach the more advanced concepts that a modern society needs. On the other hand, one of the

Polish deans, a priest, talked with me about his experience teaching at a Roman Catholic law school. Since it has always been a religious institution, the instructors have enjoyed a certain degree of autonomy and have not been forced to teach much in the way of Marxist principles. As a result, they are pretty well able now to teach law as it should be taught. But his school, like most of the others, needs textbooks for students and support equipment, like copiers and fax machines.

As I spoke with one dean, I brought out my 35mm Olympus camera to take pictures. He showed a much greater interest in my camera than in talking about law; he asked how old it was and how much I had paid for it, and he made a joke about an American owning a Japanese product. We were joined by a dean from Lithuania, who had arrived late to the conference because of a nuclear accident near St. Petersburg. He was quite bitter about the Chernobyl incident a

few years ago; he said that the Russians still had not learned how to handle such an emergency, and failed to make a full and immediate disclosure of the hazard to the inhabitants around St. Petersburg. I found observations like these to be quite interesting . . . and rather telling.

Besides working with the Sister Law Schools Program, I am the co-editor of the *CEELI Update*, a monthly newsletter which keeps participants abreast of CEELI activities. When I first heard about CEELI, at the annual meeting of the ABA's Section of International Law in the spring of 1991, I decided to get involved in some way, and I contacted CEELI's executive director, Mark Ellis. I told him I would not be able to participate in workshops in Eastern Europe, but perhaps I could work on a publication. Since CEELI was quite new, the newsletter at that time was just a few pages of typewritten material. But Mark said then that he knew CEELI's success would depend upon its publications' getting the

word out so lawyers would be encouraged to participate.

CEELI is always in need of attorneys who have expertise in particular areas of law and are willing to lend assistance. If you are interested and would like to help, please let me hear from you! You can call me at my office at the U.S. Department of Labor, 202/633-7508, extension 654. Or, if you prefer, you can call the CEELI office—202/331-2619.

*A graduate of the State University of New York at Buffalo, Randy Reade was active in his law student years as a staff member of the Journal of International Law, notes editor of the Law Review, and a member of the Mock Trial Team. Since graduating in 1987 he has worked for the Benefits Review Board of the U.S. Department of Labor but maintained his international interests, working on various projects for the ABA's Section of International Law.*

## Return of the Adjuncts



Back in the 1950s and 1960s, when the law school's full-time faculty were few in number, several of the basic courses were taught by Cleveland practitioners, many of whom served as adjunct faculty—and pillars of the institution—year after year after year. This spring Deans Peter Gerhart and Daniel Clancy '62 had the happy thought of inviting them back to the law school for lunch and a long-overdue thank you.

The photograph shows the attendees: Dan Clancy, Edwin Teple (labor law), Richard Katcher (tax), Myron Krotinger (antitrust), Peter Gerhart, Howard Kohn (estate planning). Conspicuous for his absence is Zolman Cavitch, who for many years taught a course on Ohio corporations; he was in Florida at the time. Clancy,

incidentally, is himself a former student of Cavitch and Katcher.

Reminiscences were the prime topic of the luncheon conversation. For the adjuncts, teaching had been a way to keep one foot in the academic world while they established themselves in private practice. Typically, they came to the school one evening during the week and taught a mix of law students and LL.M. candidates (this was before the invention of Continuing Legal Education). Myron Krotinger kept it up for seventeen years; Howard Kohn, for sixteen. Kohn says he finally went in to see the dean and said, "Coach, take me out."

For a busy young practitioner, teaching was quite a time commitment. A class took not just the one evening a week in the classroom, but time spent in preparation and "keeping up," as

someone put it. Said Krotinger: "I just gave up evenings and weekends and family." Why? "Sheer avarice." This with a laugh, because the pay was about \$1,000 a year.

More seriously, the adjuncts had a strong sense that law practice and law teaching had cross benefits. And they certainly enjoyed their students. Whole groups of attorneys were sent by firms and corporations—the Glidden company, for instance, and the Black McCuskey law firm in Canton. The dean of the Ohio State law school came up for a course. Morris Shanker, now one of the law school's most senior professors, took one of Krotinger's classes. "And did you teach him anything?" Gerhart asked. Krotinger replied: "Well, he sat there."

The law school still has adjunct faculty, of course, but rarely do they teach basic courses, and they impact on a small percentage of the student body. For students in that earlier era, the adjunct teachers were as much a part of the institution and played as big a role in their education as the "regular" full-time faculty. They will probably disagree with one of the statements made by Myron Krotinger at the April luncheon gathering: "It was a great arrangement, and everyone benefited. But the main beneficiaries were the adjuncts."

—K.E.T.

# Six New Benchers

The Society of Benchers convened for its annual meeting on June 12 and inducted six newly elected members: five alumni and one member of the faculty.

The faculty member is Professor **Karen Nelson Moore** (A.B., J.D. Harvard University), who came to CWRU in 1977 (from Jones, Day, Reavis & Pogue).

Earlier she had held two clerkships, one with U.S. Supreme Court Justice Harry Blackmun. Since 1984 she has been a member of the American Law Institute; in 1990-91 she held a visiting professorship at Harvard. She is known both for her teaching and for her scholarship. Nationally she has been visible in the Association of American Law Schools as chair of the Civil Procedure Section and a member of the Committee on Academic Freedom and Tenure. She also served on the ABA's seven-member Standing Committee on Judicial Selection, Tenure, and Compensation.



**John R. Werren '61** (A.B. Grove City College) has been a resident of Canton, Ohio, since 1966, when he joined the firm of Day, Ketterer, Raley, Wright & Rybolt (he is now managing partner). He has been a civic leader: trustee of the Chamber of Commerce and the Symphony Orchestra; president of the Rotary Club, the Canton Club, the Cultural Center for the Arts, and the Stark County Bar Association; chairman of the YMCA. He has served as trustee of Grove City College and president of its Alumni Association.



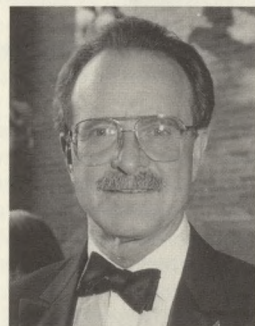
**H. Alberta Colclaser '36** (A.B. College of Wooster, LL.M. Columbia University) returned to Wooster, Ohio—her hometown—after a career in government service, specializing in international aviation law. With the Aviation Division of the U.S. Department of

State she was chief of the Air Transport Section, 1951-56, and assistant chief of the division, 1956-58. She was first secretary of the U.S. Embassy in Paris, 1959-63, and of the embassy in Ottawa, 1965-68; in between she was a policy officer in the Office of International Aviation. She concluded her government career with three years in the Department of Commerce, then served the College of Wooster for four years as its secretary and executive assistant to the president before retiring in 1976.



Three alumni members are Clevelanders:

**Lawrence M. Bell '61** (B.S.B.A. Miami University) is a partner in the Cleveland firm of Benesch, Friedlander, Coplan & Aronoff. His primary civic activities have been with the Jewish Community Federation, but he has also been involved in the Greater Cleveland Neighborhood Centers Association, the United Way, Bellefaire, the Jewish Family Service Association, and Leadership Cleveland. He has served on the law school's Alumni Board of Governors and has chaired the Corporation, Banking and Business Law Section of the Cleveland Bar Association.



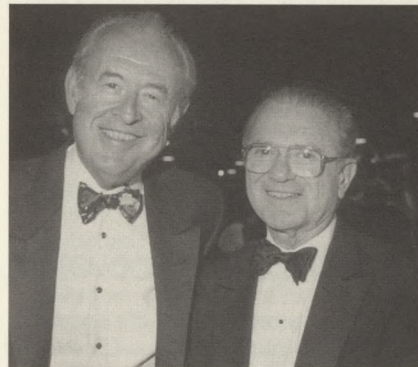
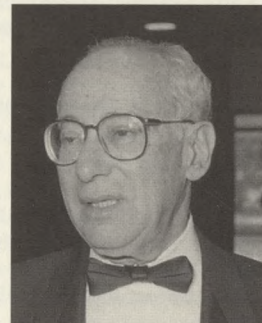
**Sara J. Harper '52** (B.S. Western Reserve University) has spent most of her career in public service. She was a prosecutor and assistant law director for the City of Cleveland before her appointment,



in 1970, to the Cleveland Municipal Court. She served as a municipal judge until her election to the Ohio Court of Appeals, November 1990. Harper is secretary of the Law Alumni Association, a trustee of the Ohio Judicial College, a founding member of the National Organization of Women Judges. She was Western Reserve's first black woman law graduate; in the course of her career she has been, many times, "the first black woman."

**Robert L. Lewis '48** (B.A. Hamilton College) is managing partner of the Cleveland

firm of Ulmer & Berne. He helped to found Cuyahoga Community College (serving as its first board chairman), and has been a trustee of the Cleveland Commission on Higher Education and a director and chairman of the Association of Governing Boards of Universities and Colleges. He has also been greatly involved in the Cleveland Opera Company, the New Organization for the Visual Arts, the Playhouse Square Foundation, the Cleveland Area Arts Council, and the Fairmount Center for the Creative and Performing Arts.



Alvin I. Krenzler '48 (above, right), chairman of the Society of Benchers in 1991-92, presided over the annual gathering and, at its conclusion, introduced his successor, George N. Aronoff '58 (above, left). Fred D. Kidder '50 is the new vice chairman, and Blanche E. Krupansky '48 the new treasurer. Professor Emeritus Oliver C. Schroeder, Jr., continues in the office of secretary.

## Alumni Publications?

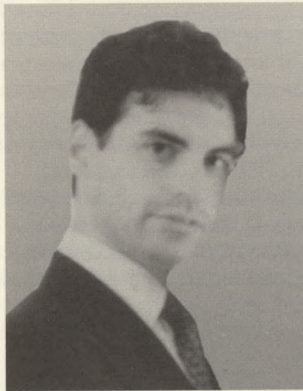
The headline ends with a question mark because, although we know that the law school's 6,700 graduates must be publishing writings of all kinds, from law review articles to limericks, and everything in between, we only rarely hear about them. We would like to establish a regular feature in *In Brief*—Recent Alumni Publications—and we need your help:

**Please, when you publish something, tell us about it.** And when you know of publications by other graduates, tell us about them—just in case they don't.

As a sample entry, we have some news from Irah H. Donner '91. Professor Jonathan Entin put us onto Donner's authorial activities, and we asked Donner to provide details.

From **Irah H. Donner '91**, an associate attorney with Staas & Halsey, in Washington, D.C.:

I have submitted several of my law school projects/papers for publication and received positive responses from various journals. [The *Trial*



Irah H. Donner '91

*Lawyers Guide* introduced Donner's article as "one of the best we have received concerning a difficult subject." The following papers have been or are scheduled for publication:

*The Copyright Clause of the Federal Constitution: Why Did the Framers Include It With Such Unanimous Approval?*, Am. J. of Legal Hist. (to be published in 1992-93 volume).

*Twenty Years of Gottschalk v. Benson: Putting the "rithm" Back into the Patenting of Mathematical Algorithms,*

5 *Software L.J.* 101 (1992). Scheduled for reprinting in Japan.

*Suing a Patent Infringer for All Infringing Activities—Using State Long-Arm Statutes for Personal Jurisdiction in Patent Cases*, 35 *Trial Law. Guide* 345 (1992).

*Young v. New York City Transit Authority: The First Amendment Protects Flag Burners, Nazis and Commercial Advertisers—Did Our Framers Forget About the Poor?*, 59 *Transp. Prac. J.* 152 (1992).

*Patenting Mathematical Algorithms that 'Embrace' Mother Nature*, 9 *Computer Lawyer* 1 (May, 1992).

I would like to take this opportunity to personally thank the excellent faculty and staff that directly or indirectly contributed to these articles. Most important, I would like to thank the reference librarians and staff at the law library for their outstanding support, guidance, and assistance in obtaining the necessary source material which made these articles possible.

## A Law Review Symposium

This fall, on November 13 and 14, the *Case Western Reserve Law Review* is sponsoring a symposium: Religion and the Public Schools after *Lee v. Weisman*. Noted legal scholars will consider and discuss the constitutional protection for religious freedom in the light of the United States Supreme Court's June 24 ruling that prayers offered at a public school graduation violate the establishment clause of the First Amendment. The school prayer case engendered four separate opinions by the justices, and these offer

symposium participants a host of positions to critique.

Professor William P. Marshall, who was instrumental in developing the topic and format for the symposium, will be the moderator, and Professor George W. Dent, Jr., will be one of the presenters, on "Free Exercise Challenges to Public School Curricula." Professor Michael Stokes Paulsen of the University of Minnesota will give a paper titled "When Public School Activities Violate the Establishment Clause," and Professor

Rodney Smith of Capital University will ask, "Is Coercion a Necessary Element of the Establishment Clause Case?"

The papers will be published in a symposium issue of the *Law Review*, Spring 1993.

Anyone who is interested in attending the symposium, or who wishes further information, should write or call the law school's Office of External Affairs, 216/368-3860.

## A Conference on U.S./Japan Transactions

Under the sponsorship of the Gund Foundation International Law Center the law school will host a major conference here on November 2 and 3: U.S./Japan Business Transactions—Policy, Licensing, and International Property Issues. Alumni and friends are invited, CLE credits will be forthcoming, and the cost is \$350 per participant.

The relevance of the conference should be readily apparent. The issues confronting U.S. companies

that conduct business with Japanese companies, in the U.S. and in Japan, are increasingly complex and challenging. The conference will focus on business transactions, joint ventures and collaborations between U.S. and Japan biomedical and high-technology companies, and business, legal, intellectual property, and government policy considerations in transferring technologies to and from Japan.

Heading the list of distinguished speakers on the program is Professor

Mitsuo Matsushita of the University of Tokyo College of Law. The conference organizer and chair is Michael D. Witt '82, managing director of the Technology Resource Group, Sacramento, California.

At this writing some details of the program are still uncertain, but all should be fixed and firm by the time this is in print. For further details write or call the law school's Office of Continuing Legal Education, 216/368-6363.

# Faculty Notes

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Since *In Brief* last reported on the activities of **Arthur D. Austin II**, he has published four law review articles: "The Waste Land" (*Brigham Young University*), "What Differs? Who Differs? What is the Difference?" (*Cardozo*), "Commentary on Jensen's Commentary" (*Connecticut*), and "The Greening of Law" (*Idaho*), plus a piece in the *Cleveland Plain Dealer* (December 29, 1991), "Trial Juries Not Likely to Bend in a Lawyer Wind." Four more articles are accepted and forthcoming: "A Primer on Deconstruction's Rhapsody of World-Plays" (*North Carolina*), "Storytelling Deconstructed by Double Session" (*University of Miami*), "Political Correctness Is a Footnote" (*Oregon*), and "Galileo's Revenge," a review essay (*Houston*). Austin reports that another four articles are completed but not yet placed.

Austin explained to *In Brief*: "If you notice that my placement of articles reflects a wide geographical range, you are right. There is a reason: Professor Erik Jensen and I are locked in a hard-fought contest over who can publish in the most states (first to get all fifty wins). While I have an expected edge (I have been in this business longer), he is coming up fast."

Other Austinian activities: a CLE program at the law school, How to Conduct a Jury Survey; and comments on a paper delivered at CWRU's Mandel Center for Nonprofit Organizations as part of a conference, Nonprofits in a Market Economy.

An article by **Rebecca S. Dresser**, "Wanted: Single, White Male for Medical Research," appeared in the *Hastings Center Report* earlier this year. Dresser has co-authored two other recent publications: "Sources of Concern about the Patient Self-Determination Act" in the *New England Journal of Medicine*, and "Standards for Animal Research: Justification and Assessment of Alternatives" in the *Journal of the American Veterinary Medical Association*.

She has presented several papers on ethics and animals: one in Houston last December at a conference co-sponsored by the National Institutes of Health and the University of Texas Health Sciences Center; others at the Cleveland Clinic in January, at the Hastings Center in April, and in Amsterdam in March at an international conference on Science and the

Human-Animal Relationship. While in the Netherlands she also spoke to the Institute for Bioethics on "Advance Directives and Personal Identity." Locally she made presentations to the law faculty of Cleveland State University and to a chapter of the American Association of University Women. In June she co-chaired a strategy development session on harassment for a workshop on women in biomedical careers sponsored by the National Institutes of Health and traveled to Tokyo to give a paper, at the Seventh International Congress on Twin Studies, on "Reproductive Technology and Multiple Birth: Legal and Ethical Issues."

In May she was named a founding member of the Legal Advisors Committee of Choice in Dying, a national organization involved in litigation and legislation to promote patient self-determination in the health care setting.

"Limited Liability in Environmental Law," an article by **George W. Dent, Jr.**, first published in the *Wake Forest Law Review*, was selected for reprinting by the *Corporate Practice Commentator*.

**Jonathan L. Entin** is back from a year's sabbatical at the Federal Judicial Center in Washington, D.C. During the year he presented papers at the Southern Conference on Afro-American Studies, at the Howard University Law School (on "Defeasible Fees and the Legacy of Massive Resistance"), and at CWRU's Mandel Center (on "Charitable Trusts and the Legacy of Massive Resistance"). His essay, "Going Around and Coming Around in Prince Edward County," was published in *The Gamut*; an earlier version appeared in *In Brief*.

**Paul C. Giannelli** was invited to give the Kenneth J. Hodson Lecture at the U.S. Army JAG School in March; his topic was "Scientific Evidence in Criminal Prosecutions." Two articles by Giannelli—one on dental and bite mark evidence, the other on gunshot residue tests—have recently been published in the *Criminal Law Bulletin*; and the *Criminal Practice Law Review* has reprinted an article published last year in the *Vanderbilt Law Review*, "Criminal Discovery, Scientific Evidence, and DNA."

Shorter articles have appeared regularly in the *Public Defender Reporter* and the *Criminal Law Journal of Ohio*. Last year saw the publication of the third edition of his *Ohio Rules of Evidence Handbook*; annual supplements to *Courtroom Criminal Evidence*, *Ohio Evidence Manual*, and *Scientific Evidence*; and a partial revision of the *Ohio Evidence Manual*.

The *Connecticut Law Review* published a commentary by **Erik M. Jensen** ("Law Review Correspondence: Better Dead Than Read?") along with five responses, including one from Arthur Austin (see above). Jensen also has had exchanges, printed and oral, with Calvin H. Johnson of the University of Texas; the *Virginia Tax Review* published Jensen's latest written salvo, and the August ABA meeting was the latest scene of mouth-to-mouth combat.

Jensen's "A Monologue on the Taxation of Business Gifts" appeared in the *Brigham Young University Law Review's* symposium on legal humor; it contains, says Jensen, "a serious point or two buried in a mass of sophomoric humor." And Jensen has a short story forthcoming in the *Denver University Law Review*, "A Day in the Life of S. Breckinridge Tushingham," which he says is "my first participation in the law review scam of the century, footnoted storytelling. It describes a would-be law professor's interviews at the fictional Scoff Law School. A sequel, 'Tough on Scholarship,' which describes the equally fictional Sloth Law School's raids on the Scoff faculty, is now circulating among law reviews."

More mundane publications of Jensen's are the annual supplements for Bruen, Taylor & Jensen, *Federal Income Taxation of Oil and Gas Investments*; a share of the annual current developments report of the ABA Tax Section's Committee on Sales, Exchanges and Basis (Jensen chairs the Subcommittee on Important Developments); a review of Barber Conable's *Congress and the Income Tax in Policy Currents*, the newsletter of the American Political Science Association; and a piece in the *Cleveland Plain Dealer* titled—by the editors, not by Jensen—"Pro-Abstinence Message Stops Ears." An essay originally published in the *University of Pennsylvania Law Review*,

"The Heroic Nature of Tax Lawyers," was reprinted by *Tax Notes*.

Finally, we note that Jensen has been named to the American Law Institute Tax Advisory Group.

**Peter A. Joy**, who is on leave this fall, visiting at Washington University in St. Louis, has been named co-chair of the In House Clinical Committee of the Section on Clinical Education of the Association of American Law Schools; he was one of the section's session leaders at the annual meeting in January.

Here at the law school Joy chaired the Curriculum Committee during 1991-92 and completed a working set of "1-L Professional Responsibility Problems" which have been distributed to all AALS law schools. The latter effort was a part of the school's professionalism program that won the ABA's Gambrell Award last year. Joy also presented CLE programs on "Preparing For Death" (with Louise W. McKinney) and on "Criminal Practice for Civil Practitioners"; he also took part in a CLE program sponsored by the Cuyahoga County Bar Association, speaking on "Review of Informal Ethics Opinions by the Board of Grievances and Discipline." And he continued liaison activities with CWRU's Mandel Center for Nonprofit Organizations.

In July Joy was an invited participant in a Justice and Society seminar of the Aspen Institute. Last December he moderated a panel on "The Bill of Rights and Censorship" at the 1991 national meeting of the Society for Professional Journalists; he was also a presenter at the 1992 annual meeting of the Consortium of Multiple Sclerosis Centers. He was elected to the Executive Committee of the State Board of Directors of the American Civil Liberties Union of Ohio.

Joy played a major role in training and advising the law students who organized a project to assist Haitian refugees. See the article by Michael Ryan '92, page 7.

During the past year **Lewis R. Katz** worked to develop the school's new LL.M. in U.S. Legal Studies for foreign attorneys and continued as adviser to the Ohio Sentencing Commission; in May he spoke to the Ohio Municipal Attorneys Association. Banks-Baldwin brought out the third edition of his *Ohio Arrest, Search and Seizure; 1992 Ohio Criminal Justice* (Daniel Clancy is co-author); and the 1992 Supplement to *Schroeder-Katz Ohio Criminal Law*

and *Practice*. Katz has in preparation the 1992 Supplement to his *New York Suppression Manual*.

"Resolving the Flaws of Residential Servitudes and Owners Associations," an article by **Gerald Korngold** published in the *Wisconsin Law Review*, won the 1991 Community Associations Institute Research Foundation Award for Excellence; Korngold presented the paper at the institute's national conference in May, 1992. Korngold also was a speaker and group leader at the conference for property law teachers sponsored by the Association of American Law Schools.

At the annual meeting of the Association of American Law Schools Korngold moderated the program of the Real Property Section, "Private Property and the Constitution." This summer the 1992 supplement to his book, *Private Land Use Arrangements*, was published by Shepard's/McGraw Hill.

During the fall semester **Juliet P. Kostritsky** is a visiting professor of law at Northwestern University; she is teaching Contracts and co-teaching a seminar on contracts jurisprudence with Professor Richard Speidel.

**Wilbur C. Leatherberry** has been deeply involved in a project for the U.S. District Court, Northern District of Ohio. As a result of the Civil Justice Reform Act of 1990, the court's chief judge, Thomas Lambros, undertook a revision of the local rules of court. Along with Robert J. Fay '48 and Thomas P. Mulligan, a member of the adjunct law faculty, Leatherberry co-chaired the committee that drafted Section 7: Alternative Dispute Resolution of the new rules, which took effect January 1, 1992. Since then he has taken part in training programs presented to the Cleveland Bar Association and to members of the Federal Court Panel (the lawyers who will serve as neutrals in the court's ADR processes). Leatherberry is increasingly in demand as a CLE presenter; note that the 1992 Law Alumni Weekend includes a daylong program, organized by him, on negotiation and mediation.

**James W. McElhane**y continued regular appearances in the *ABA Journal* ("Refreshing Recollection," "An Impeachment Checklist," "The Guide," "Judge Trials," "Taking the Blame," "Taking Sides," "Preparing Witnesses for Depositions") and in *Litigation* ("Picking a Jury," "The

Adverse Witness"). He gave special presentations at meetings of the Summit County Trial Lawyers Association in Akron, the Ohio Common Pleas Judges' Association in Columbus, and the Midwest Chapter of the American Academy of Psychiatry and the Law in Cleveland, and he spoke at the Fourth Annual Faculty and Authors Program in Baltimore. Other cities where he has touched down recently: Los Angeles, San Francisco, Albuquerque, Cincinnati, Lansing, Atlanta, Houston, Phoenix, Portland, New Orleans, Denver, Las Vegas, Hartford, Dallas, Providence, Milwaukee, Chicago, Honolulu, and—in Canada—Calgary, Edmonton, and Halifax.

The May issue of the *Georgetown Journal of Legal Ethics* includes an article by **Kevin C. McMunigal**, "Rethinking Attorney Conflict of Interest Doctrine."

In May **Kathryn S. Mercer** gave two daylong workshops for Franklin County and Greene County Children Services on Avoiding Liability in Child Welfare and Protection Work, and a workshop on Core Legal Issues in Child Welfare Practice at Summit County Children Services. In July she gave three presentations in Tacoma, Washington, at the Conference on Legal Research and Writing: "Designing Effective Writing Assignments: Some Traps to Avoid," "Teaching Computer-Assisted Legal Research: Timing and Scope, Integration with Hard Bound Sources, and Student Access," and "The Scope of Academic Support Programs: Who Should Support Programs Serve?"

**Karen Nelson Moore** is a newly elected fellow of the American Bar Foundation and a newly elected faculty member of the law school's Society of Benchers (see page 25). She was recently selected as the first chair of CWRU's new University Committee on the Status of Women Faculty. Meanwhile her scholarly activities continue: she has completed a manuscript on "The Supreme Court's Role in Interpreting the Federal Rules of Civil Procedure" and is at work on an article for a symposium on Justice Blackmun.

**Sidney I. Picker, Jr.**, was recently elected a trustee (one of seventeen) of the Southern Africa Legal Services and Legal Education Project (SALSLEP), replacing Erwin Griswold, who recently retired. SALSLEP, based in Washington, was formed in 1979 to support the development of public interest, nonprofit legal services and

legal education in South Africa. The Legal Resources Centre in Johannesburg has been its principal grantee.

The *1992 Annual Survey of Bankruptcy Law* (Callaghan) will include an article by **Morris G. Shanker**, "Bankruptcy Asset Theory and Its Application to Executory Contracts."

At the annual meeting of the National Academy of Arbitrators in May, **Calvin W. Sharpe** gave a presentation, "*Gilmer v. Interstate/Johnson Lane Corporation* and Its Implication for Labor Arbitra-

tors." His "Adjusting the Balance Between Public Rights and Private Process: *Gilmer v. Interstate/Johnson Lane Corporation*" will be published in the 1992 N.A.A. proceedings.

"Causal Comparisons" by **Robert N. Strassfeld** was recently published by the *Fordham Law Review*. Strassfeld summarizes: "The article begins with the premise that courts will often want to make judgments of relative causal importance, as they do in some tort cases under comparative fault rules, for instance, and it observes that courts often make

these judgments, or ask jurors to do so, without much thought as to what it means to say that A was a more important cause of an event than B. It then explores the multiple possible meanings of 'more important cause' and considers their strengths and weaknesses. Finally, it offers a partial solution to the problem of comparing causes."

Strassfeld is currently at work on an article dealing with an aspect of the legal history of the Vietnam War, and on a new seminar on U.S. legal history since 1945.

## Speech Training for Law Students

by **Mary Kay Kantz**  
Instructor

Even though speech training has been called the public equivalent of a root canal job, CWRU law students have been lining up to put themselves through it. A new course, *Elements of Legal Persuasion*, has been playing to a packed house for the past few semesters. The course combines principles of classical logic and rhetoric with modern communications theory. It helps prepare third-year students for practice, and it gives second-year students a foundation for clinical and trial practice courses.

A recent survey by the American Bar Foundation revealed that lawyers in large firms, mid-size firms, and rural practices all agree: oral communication is the most important skill for the practitioner. Of the firms surveyed, 92 percent expect new associates to bring this skill with them rather than develop it on the job. More than three-fourths of the attorneys surveyed believe that oral communication can be taught effectively in law school, but only one-fourth believe law schools give it sufficient attention, and only six percent said they themselves had learned the skill in law school.

Though the American Bar Association and the Association of American Law Schools continue to encourage skills training, most law schools just do not teach oral communication as a distinct subject. There are few models and no textbooks specifically related to the skill as part of legal practice. This law school has taken the lead, and schools in Delaware, Pennsylvania, Florida, and California are currently building on the CWRU model.

I first taught *Elements of Legal Persuasion* in the fall semester of 1990. The course prepares students to communicate clearly and effectively,



Mary Kay Kantz with four of the students who took *Elements of Legal Persuasion* last spring: Rae Brough '92, Jeffrey Schwarz '92, Natalie Grubb '93, Sandra Harding '93. Kantz joined the CWRU law faculty in 1985 as an instructor in the first-year writing program. She is a graduate of Ursuline College and the law school of Cleveland State University.

in all kinds of situations: everything from rainmaking to litigating to politicking, and a lot more in between. Some weeks students meet in a large group to hear lectures on basic principles of persuasion, to give prepared presentations before the group, and to engage in impromptu group and individual exercises. Other weeks the class is divided into groups of eight for presentations which we videotape and then closely critique.

Students in the class have a chance to deal with just about every type of oral communication situation that a lawyer might encounter from day to day. They ask how to make small talk with clients and partners at social gatherings; I refer them to Susan RoAne's *How To Work a Room*. They work on opening statements and closing arguments, concentrating on persuasion through eye contact, body language, and storytelling (as a complement to the procedural, tactical, and evidentiary focus of their trial practice courses). They practice responding impromptu to hostile questions—from a disgruntled client, or from a lay audience following a presentation on the state of the legal profession.

They give formal presentations on issues of the day—homelessness,

housing discrimination, presidential politics, definitions of death, what constitutes leadership. Many of the assignments focus on professional responsibility issues, in keeping with the school's current emphasis on incorporating these issues throughout the curriculum. For the final presentation of the semester, I encourage the students to pick a subject they would like to be able to speak on in the future, perhaps as a presentation to a bar seminar or a civic group. By this time many of them are determined to take every available opportunity to address any audience; all semester long, I have drilled into them: "Be a *visible* high achiever."

At the heart of my course is the Aristotelian notion of the three artistic modes of persuasion: ethical appeal (establishing your credibility), emotional appeal, and logical appeal. Students consider what kinds of audiences and situations can be affected by an appeal to emotion. They become familiar with the formal and material fallacies which can destroy the logic of an argument, but which are often used to bolster a weak case. And in the classroom, in a learning-by-doing setting, they develop confidence in their public-speaking skills. It is that confidence that establishes credibility.



# Class Notes

by Beth Hlabse

## 1948

**Robert L. Lewis** spoke on the arts project of the old Works Projects Administration—how the government first supported the arts, then censored them, and how that relates to the plight of the National Endowment for the Arts—at Cuyahoga Community College's Cleveland Festival of the WPA.

## 1950

**John J. Monroe** was admitted to practice before the Supreme Court of the United States, in special ceremonies on April 6, 1992, in Washington, D.C.

**Thomas O. Murphy** has retired from Thompson, Hine & Flory and is now director of claims and litigation for the University Hospitals of Cleveland.

## 1954

**Herbert B. Levine** will speak on "Estate Planning for Unusual and Unique Assets" at the Cleveland Bar Association's Estate Planning Institute on October 9.

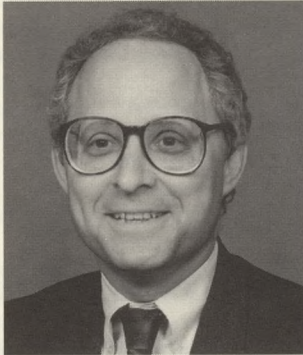
## 1956

**John P. Rice, Jr.**, has become of counsel to Walter, Haverfield, Buescher & Chockley in Cleveland.

## 1966

**Leslie Crocker Snyder** received the Alumnae Recognition Award from the Radcliffe College Alumnae Association. The award, established to honor "women whose lives and spirits exemplify the value of a liberal arts education," was presented on June 5.

## 1970



**John M. Alexander** was elected to serve on the board of trustees of Make-a-Wish Foundation of Northeast Ohio, an organization that grants the wishes of children with life-threatening diseases.

**Stuart A. Laven** chaired a session on "Acquired Control of Ohio 'Twilight Zone' Corporations" at the Cleveland Bar Association's fourth annual Corporation, Banking, and Business Law Institute.

## 1972

**Peter J. Junkin** has been appointed judge of the Bedford Municipal Court.

## 1973

**Randall L. Solomon** has become a fellow of the American College of Trial Lawyers.

## 1975

From **Phillip E. Johnson**: "I have left the partnership of the Portland, Maine, based law firm of Pierce, Atwood, Scribner, Allen, Smith & Lancaster, and have opened my own litigation firm in Augusta, Maine."

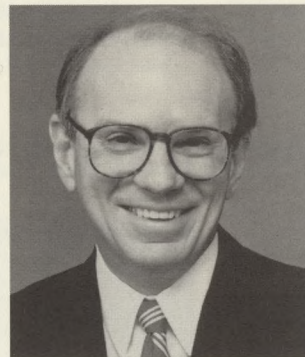
## 1977

**Janet R. Beck** has been appointed assistant law director of Aurora, Ohio, and reappointed vice chairman of the board of trustees of the Community Hospital of Bedford.

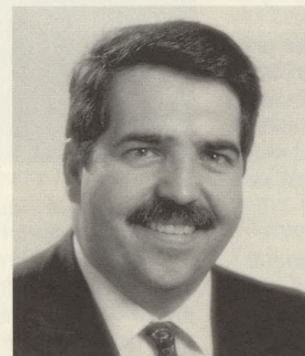
**Christopher C. McCracken** spoke at the CWRU School of Management on legal issues concerning entrepreneurs and relationships between entrepreneurs and their lawyers.

**Barbara J. Smith** was elected to the board of trustees of the Cleveland Bar Association.

**Charles W. Whitney** joined the board of directors of SciTech, the Science and Technology Museum of Atlanta.

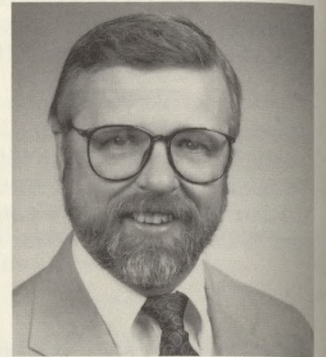


## 1979



**Michael P. Coyne** has formed a new firm—Waldheger, Coyne & Associates—in Cleveland.

**Theodore J. Esborn**, formerly the commissioner of Cleveland's Division of Environment, has joined McDonald, Hopkins, Burke & Haber as co-chairperson of the firm's environmental law practice group.



**Stephen A. Markus** spoke at the CWRU School of Medicine on the impact of the Americans with Disabilities Act on a physician's right to refuse treatment to patients infected with HIV and at the CWRU School of Management on legal issues concerning entrepreneurs and relationships between entrepreneurs and their lawyers.

## 1980

**Katherine L. Hatton** is now vice president and general counsel of Philadelphia Newspapers, Inc.

## 1981

**Mark W. Alloy** has become a partner at KPMG Peat Marwick and will begin a two-year assignment in London; he will provide tax planning assistance to multinational companies with interests in the United Kingdom and throughout Europe, and will assist European companies with investments in the United States.

**Jeffrey S. Kaufman** tells us, "I recently transferred to Brussels to coordinate Coopers & Lybrand's European Expatriate Tax Practice. I expect to be here for 3-5 years."

### Gay and Lesbian Alumni —

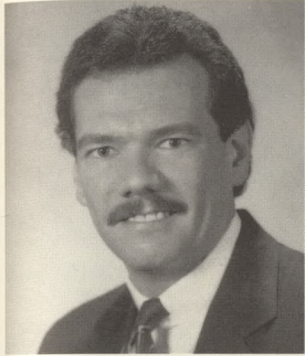
A CWRU law student organization—the Lesbian and Gay Law Alliance—is trying to contact gay and lesbian law graduates to work with us on some projects concerning gay/lesbian legal issues. If you are interested, please contact Randy Fogle ('93) c/o Lesbian and Gay Law Alliance, CWRU School of Law, 11075 East Boulevard, Cleveland, Ohio 44106.

**Dawn Starr** became of counsel to the firm, Akin, Gump, Haner & Feld in January, 1992. She practices labor law.

### 1983

**G. Michael Curtin** became a named partner with the law firm of Keller, Scully & Williams. The firm will now be known as Keller, Scully, Williams & Curtin.

**Jeremy Gilman** was recently appointed by Governor George V. Voinovich to the Ohio Interagency Early Intervention Council.



**David G. Johnson** has been appointed department manager of the employee benefits practice at McDonald, Hopkins, Burke & Haber in Cleveland.

**Mark Winston** has left private law firm practice in New York City and is now an assistant U.S. attorney in New Jersey concentrating in bank fraud and securities fraud cases.

### 1984

**Robert D. Horvath, Jr.**, has left Jones Day, Reavis & Pogue in Washington, D.C. and has been appointed vice president and general counsel of National Electronics Warranty in Sterling, Virginia.

**Diane Bernstein Kundler** has opened an office in her home in Bellerose, New York, where she is specializing in real estate negligence and matrimonial actions.

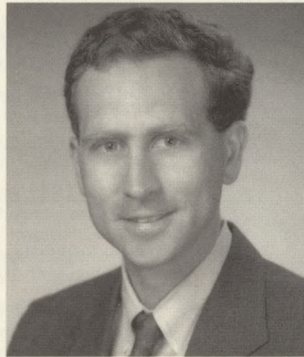
**Robin Reiner** sent us: "I was promoted to director of community medical services at Kaiser Permanente and transferred to our Hawaii Region in May. The job is a real challenge. Of course, Hawaii is beautiful and warm. The people are just as warm, and friendly."

### 1985

**Gregory J. DeGulis** has published an article on environmental issues that impact real estate transactions in the June issue of *Small Business News*. He has also been appointed trustee of the Northeast Ohio Jazz Society and legal counsel for its board of trustees.

**Donna M. DeSilva** recently won two awards for her work as a senior trial attorney in the chief counsel's office, Office of Thrift Supervision: the Chief Counsel's Award and a Certificate of Appreciation from the OTS director and chief counsel for her work on the Kaye Scholer matter, which recently received substantial media attention.

**Jeffrey S. Gray** was recently elected to the board of the Shaker Heights Youth Center.



### 1987

**Scott E. Allbery** has left Buckingham, Doolittle & Burroughs in Akron and accepted a position as an environmental, health, and safety attorney with Eaton Corporation in Cleveland.

### 1991

**Frank B. Petras** has formed his own firm in Cleveland, Petras & Associates.

## In Memoriam

- Alec A. Mastics '27  
February 25, 1992
- Rudford Kyle Wilson '27  
July 27, 1992
- Louis E. Lewis '28  
May 12, 1992
- Robert W. Weamer '29  
January 16, 1992
- John G. Cardinal '48  
May 10, 1992
- Sherman N. Helm '48  
June 21, 1992
- Harold B. LeCrone '50  
April 3, 1992
- John W. Ritter '52  
May 21, 1992

## Watch for your Alumni Directory questionnaire!

The law school will publish a new alumni directory in this centennial year, 1992-93. Soon you will be receiving your questionnaire form, showing you the address information that we currently have on record and inviting your verification or correction. You can reply by mail or by a toll-free telephone call. At the same time, you can order your copy of the new directory.

For the law school, the great benefit of the directory will be the opportunity it gives us to update our records. This is particularly important because we are currently in the process of merging what have been two separate and independent computer databases—one that has been maintained by the law school, and one that is part of the central university system. In some cases there are discrepancies between the

law school's own records and those of the university. Please help us be sure that the *correct* information goes into the new directory—and into the single database which henceforth will be used for all our mailings.

The Harris Publishing Company will produce the directory and handle sales. The company produced the law school's 1984 directory and did an excellent job; we are pleased to be collaborating with Harris again. Please note that the directory will be made available *only* to CWRU law alumni, current students, and faculty and staff. None of the data will be released for any other purpose. Please also note that your only contact from the Harris Company will be by mail. *No one will telephone you.*

Although the law school does its best to maintain complete address

information for all alumni and asks your help in doing so, we also do our best to maintain confidentiality if you wish any such information to remain unpublished. You can note that on your directory questionnaire form.

Routinely in *In Brief* we remind readers that it has been the law school's longtime policy to give a graduate's address or phone number to other alumni, to current students, or to any inquirer who seems to have a legitimate purpose in locating someone. We try to be open and helpful because we believe that the benefits to everyone outweigh the risks. We ask anyone who wishes to have information more severely restricted to put that request in writing to the school's Office of External Affairs.

# Missing Persons

Please help! Listed below are graduates for whom the law school has no mailing address. Some are long lost; some have recently disappeared; some may be deceased. If you have any information—or even a clue—please call (216/368-3860) or write the Office of External Affairs, Case Western Reserve University School of Law, 11075 East Boulevard, Cleveland, Ohio 44106.

## Class of 1943

David J. Winer

## Class of 1948

Hugh McVey Bailey  
Walter Bernard Corley  
Joseph Norman Frank  
Kenneth E. Murphy  
Albert Ohralik  
James L. Smith

## Class of 1949

Benjamin F. Kelly, Jr.  
Coleman L. Lieber

## Class of 1950

Oliver Fiske Barrett, Jr.

## Class of 1951

Robert L. Quigley

## Class of 1952

Anthony C. Caruso  
Allan Arthur Riippa

## Class of 1958

Leonard David Brown

## Class of 1961

James E. Meder

## Class of 1964

Dennis R. Canfield  
Frank M. VanAmeringen  
Ronald E. Wilkinson

## Class of 1965

Salvador y Salcedo  
Tensuan (LLM)

## Class of 1966

Robert F. Gould  
Harvey Leiser

## Class of 1967

Thomas F. Girard  
Donald J. Reino

## Class of 1969

Gary L. Cannon  
Howard M. Simms

## Class of 1970

Marc C. Goodman

## Class of 1971

Christopher R. Conybeare  
Michael D. Franke  
Michael D. Paris

## Class of 1973

Thomas A. Clark  
Thomas D. Colbridge  
Richard J. Cronin

## Class of 1974

Robert G. Adams  
Arthur M. Reynolds  
Glen M. Rickles  
John W. Wiley

## Class of 1976

A. Carl Maier

## Class of 1977

Stephen R. Archer

## Class of 1978

Andrew J. Herschkowitz  
Robert E. Owens  
Lenore M. J. Simon  
Jonathan S. Taylor

## Class of 1979

Corbie V. C. Chupick  
Gregory Allan McFadden

## Class of 1980

Stephen Edward Dobush  
Lewette A. Fielding  
Steven D. Price

## Class of 1981

James F. Anadell  
Luis A. Cabanillas, Jr.  
Cherry Ferguson  
Herbert L. Lawrence

## Class of 1982

Heather J. Broadhurst  
Robert D. Falk  
Darlene D. McClellan  
Stephen A. Watson

## Class of 1983

David Steele Marshall  
Alayne Marcy Rosenfeld

## Class of 1984

Richard S. Starnes

## Class of 1985

Paul A. Steckler

## Class of 1987

Edward M. Aretz  
Ralf W. Greenwood

## Class of 1989

James Burdett  
Gwenna Rose Wootress

## Class of 1990

Kieran R. Kennedy  
Candace D. Kisner  
Michael A. Mitchell

## Class of 1991

Scott A. Anderson  
Sara A. Evans  
Shelbra J. Haggins  
Joseph A. Pfundstein

## Class of 1992

Newton C. Marshall  
Michael A. Tonya  
M. Christine Valada

## Case Western Reserve University Law Alumni Association

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Stuart A. Laven '70

#### Vice President

Edward Kancler '64

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Boston—Dianne Hobbs '81  
Canton—Stephen F. Belden '79  
Chicago—Miles J. Zaremski '73  
Cincinnati—Barbara F. Applegarth '79  
Columbus—Nelson E. Genshaft '73  
Los Angeles—David S. Weil, Jr. '70  
New York—Richard J. Schager, Jr. '78  
Philadelphia—Marvin L. Weinberg '77  
Pittsburgh—John W. Powell '77  
San Francisco—Margaret J. Grover '83  
Washington, D.C.—  
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Sara J. Harper '52

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Ann Harlan Young '85  
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## Continuing Legal Education

- |            |     |   |
|------------|-----|---|
| <b>Sep</b> | 18  | Negotiation Strategies & Ethics (2.5 credit hours)<br>Understanding & Utilizing Mediation (3) |
|            | 19  | Will Your Written Contract Hold Up in Court? (2)<br>Developments in Legal Ethics 1992 (2)     |
|            | 23  | Litigation in Europe (3)  |
|            | 30  | Establishing Subsidiaries in Europe (3)   |
| <b>Oct</b> | 9   | Ohio Public Records Law (3)   |
|            | 20  | 1st session, Basic Estate Planning (10)<br>(weekly, through Nov. 17)                          |
|            | 23  | Right to Know Laws (ELI) (6)  |
|            | 29  | Negotiation Strategies & Ethics (3)   |
| <b>Nov</b> | 2-3 | U.S./Japan Business Transactions (10.5)   |
|            | 12  | Civil Service Legal Update (6)  |
|            | 19  | Civil Service Legal Update (6)<br>held in Columbus  |
| <b>Dec</b> | 5   | Ethics for the Criminal Practitioner (3)  |
|            | 10  | The Security Lawyer's Exposure to Sanctions (3)   |
|            | 12  | Preparing for Death (3)   |
|            | 17  | Intellectual Property Issues (3)  |
| <b>Jan</b> | 7-9 | Basic Deposition Program (20.5)<br>Co-sponsored with National Institute for Trial Advocacy    |

Except as noted, CLE sessions are held in Cleveland—some at the law school, others downtown. For further information call 216/368-6363.

# Calendar of Events

## September 18 and 19 LAW ALUMNI WEEKEND

Dean's Cocktail Reception  
Groundbreaking—Building Addition  
Alumni Awards Luncheon  
Class Reunions

- Oct**
- 2 Columbus Alumni Luncheon
  - 9 Chicago Alumni Luncheon
  - 16 Cincinnati Alumni Luncheon
  - 23 Canton Alumni Luncheon
  - 30 Akron Alumni Luncheon

- Nov**
- 6 Toledo Alumni Luncheon
  - 12 Washington, D.C. Alumni Reception
  - 13-14 Law Review Symposium  
*Religion and the Public Schools*
  - 18 Norman A. Sugarman Memorial Lecture in  
Nonprofit Law  
Henry B. Hansmann  
Harris Professor of Law, Yale University
  - 20 Faculty/Alumni Luncheon—Cleveland

- Jan**
- Dates t.b.a.  
San Francisco (AALS) Alumni Event  
Youngstown Alumni Luncheon  
West-of-Cleveland Alumni Luncheon—Elyria

For further information: Office of External Affairs  
Case Western Reserve University  
School of Law  
11075 East Boulevard  
Cleveland, Ohio 44106-7148  
216/368-3860

Address Correction Requested



In Brief  
Law Alumni News Bulletin  
Cleveland, Ohio 44106-7148

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