

1991

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**1990 ALUMNI  
WEEKEND**



## **in brief**

**Number 51**

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# The Centennial Initiative Campaign

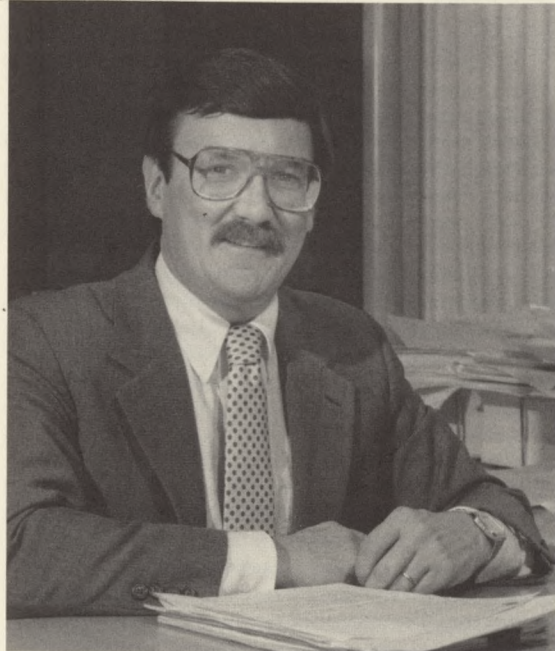
There is nothing inevitable about building a law school of enduring distinction. Nor about providing a superlative education for talented students. Nor about offering guidance to a profession that has as its only assets personal integrity and the power of the mind. Those things happen only because people join together to make them happen. They happen in few places, and only when the right amount of willpower and wallet power combine with the energy and talent of many persons to make them happen.

The Law School Centennial Initiative Campaign, part of the \$350 million Campaign for Case Western Reserve University, gives us an opportunity to show that this is the place and now is the time to make these things happen at our law school. The campaign has been quietly under way for some time. We have accumulated an impressive list of new heroes for the law school, whom you will read about in the coming months as we unfold the good news about our fund-raising successes. Right now, as the campaign prepares to enter its public phase, I want to make several observations about it.

Those who have been attentive readers of this column for the last several years will have noticed that over time I have rather methodically explored our strengths and opportunities in each area of our operation—student body, library, faculty, curriculum, and physical plant. Taken together, my reports summarize the plan that has been reviewed, refined, and adopted by our faculty and advisory boards to guide our development and our capital campaign. Its contours should come as no surprise: to be innovative in curriculum, selective in admissions, productive and broad-based as teachers and scholars, delivery-oriented in library resources, and unwilling to compromise any further the integrity of Gund Hall. It is a sound plan. If properly executed, it will help make our further achievement much more inevitable than is now the case.

But planning alone is not enough. The campaign gives me and gives its alumni leaders an opportunity to explain what the plan means for the future of the law school, and what it will cost. We will have the pleasure of reporting on how the plan is unfolding as its various pieces are financed. You will have the pleasure of watching your law school grow in unimagined ways. We will see that we need not think of our law school in regional or second-tier terms; we should expect much more.

Let me be quite frank about what is at stake in the Centennial Initiative Campaign. Quality private legal education must be preserved if our profession is to be guaranteed the freedom to innovate and grow without government involvement. But real quality is expensive, and competition from heavily subsidized state schools makes it even more so. We must ask whether there will be room in legal education for a private law school that is not at the very peak of professional education. All our planning is premised on the idea that if private legal education



is some day confined to a relatively small number of schools recognized nationally and internationally, we must be among that group. Our alumni deserve it, our community deserves it, and our profession deserves it.

The fact is that we are still too tuition-driven to be able to develop the quality that our future requires. This campaign must succeed because we must be able to provide our students with the same kind of education subsidy that is provided by state schools or well-endowed private schools. My fear is that too many of our graduates view their giving to the law school simply as an expression of gratitude for the legal education they received in the past, and not as an investment in, or guarantee of, our future. In truth, we are a charity, and a very important one, and increased charitable giving is a prerequisite to improving our quality. Therefore, I will not be shy about pressing all of our graduates to think in new terms about what they want their law school to be. The campaign will eventually be carried to every graduate in every state and country. It will reach foundations and corporations; it will allow us to make new friends. It will be continued until I am convinced that we have exhausted our ability to stretch our vision of what this law school can, and must, be.

I am also convinced that the campaign will be successful. Its advance phase has already raised over \$10 million, and we have not yet exhausted our list of significant donors. Beginning in the next *In Brief*, you will see the commitment that so many are bringing to our endeavor.

Peter M. Gerhart  
Dean



# The Schooling of Preventive Law

by Edward A. Dauer  
Professor of Law  
University of Denver

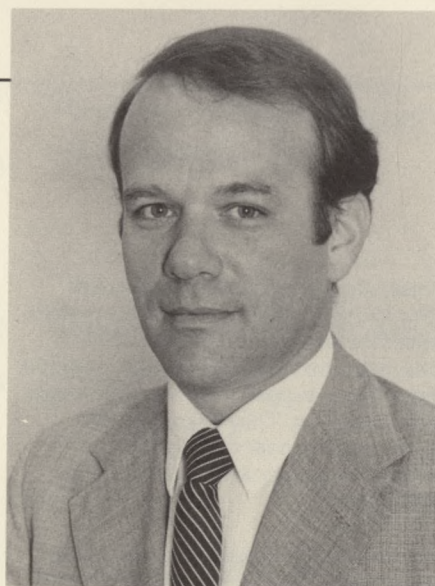
During the past seven or eight years the legal profession, and to some extent its clients in industry and commerce, have developed a more explicit interest in the field of preventive law than we have witnessed before. The very phrase—"preventive law"—seems even to have achieved a certain cachet, or at the least an acknowledgement that there *is* some useful thing to be known by that name. The reasons for this new attention are not entirely clear. Perhaps they are similar to those things giving similar new impetus to our sister enterprise of Alternative Dispute Resolution. It may, for example, be that we have now attained a reservoir of basic work in these fields, simultaneously with a growing recognition of the formal legal system's inability to accommodate itself to increasing social and industrial complexity, and to the rapid evolution of our organizational notions of responsibility and causation. Or to put it more succinctly, as a nation we have failed to make the minimally necessary (and by now massive) investments required for the modernization and reform of the public judicial system. That failure has made "going to law" a more expensive and disruptive experience than even Dickens could have described in his famous narrative of the matter of *Jarndyce and Jarndyce*.

Another guess might be that the increasingly competitive nature of the world economy has caused previously sheltered American firms to face with less protection their global competitors who work in systems without such a legal burden; and that legal process costs once thought beyond the firm's control are now being scrutinized as closely as all other costs are. Or maybe preventive law is just an idea whose time has been made to come: it developed a literature at about the same time that its audience developed an interest.

## The State of the Preventive Law Art

Whatever the reasons may be, the evidence is substantial that there is something respectable called "preventive law." For the practice, we see even old-line publishers marketing lawyers' treatises with "Preventive ..." in the title or in the text. Likewise CLE producers—including the ABA, which recently produced a day-long telenet program on the centerpiece of corporate preventive law, the legal audit. The American Corporate Counsel Association has made preventive law, by name, the centerpiece of its membership activities; the State Bar of California decreed 1990 to be "The Year of Preventive Law"; and the Massachusetts Bar Association has a new committee by the very name. A few law firms tout a Preventive Law Department, and at least one major casualty insurer is developing preventive law programs for distribution to its insureds. While the force of these developments is still less than torrential, something interesting is clearly going on.

The fact, of course, is that many lawyers—maybe even most lawyers—have always spent more of their time guiding their clients around legal risks than protecting them in court once the risks have materialized. But until recently there has been little if any recognition of the systematic connections among those risk-managing activities; there has been no sense that preventive law is in fact a coherent idea. It is that recognition which is so recent, and so remarkable.



Edward A. Dauer, professor of law (and dean, 1985-89) at the University of Denver, is president of the National Center for Preventive Law. A graduate of Brown (A.B.) and Yale (LL.B.), he taught at Toledo, Southern California, and Yale before joining the Denver faculty in 1985. He is the co-author, with Louis Brown, of *Planning by Lawyers: Materials on a Nonadversarial Legal Process* (1978), and he chairs the Council of Academic Advisers for the Center for Public Resources.

The situation in the law schools, however, is well behind the curve. I shall have more to say about the likely causes of that in a moment, though I will not dwell on them extensively in this essay. Louis Brown and I have addressed that problem elsewhere; my purpose now is only to describe what I believe the proper place of preventive law should be, in the hearts and minds of our colleagues in the legal academies. Suffice it here to note that we are indeed well behind the practice.

In the typical law school curriculum there are courses in Estate Planning, in Business Planning, sometimes in Tax Planning, and frequently in Real Estate Transactions Planning. But so far as I am aware, with rare and lonesome exceptions there are no courses in our law schools' curricula which deal with "Planning" as if it were an activity with a coherence apart from the particulars of the subjects in which it occurs. Faculty members who assert that they do pay attention to the planning dimensions of their courses—most often by occasionally asking their classes the question "How could this deal have been arranged so as to avoid this problem?"—generally (again, as measured by my experience) use such a query as a way of testing for comprehension of the substantive point, but not as a way of fashioning into the substantive materials any serious effort to teach their planning dimensions. Even the "problem method" results less in the development of *generalized* notions of problem-solving and planning than it does in substantive familiarity and highly particularized planning skill. And in any case there is again no systematic development of planning and legal risk management as a topic with common features across the several subjects of the law.

The contrast with advocacy is striking. We have courses in Torts and Property and Antitrust and Family Law; and we have courses in Trial Tactics, Procedure, Appellate Advocacy, Evidence, and so on. We do not have courses in Torts Trials, Property Trials, Family Law Trials . . . Advocacy, it would seem, is regarded as an activity amenable to description by a set of general theories. But in our curricula, planning and prevention are apparently not. We in the law schools have therefore missed two opportunities. One is that of providing a theoretical basis for the work being pioneered in the practice.



The other is the window into the law which our students don't often get to look through. Their view, when taken almost wholly through the pane of the litigation process, shows only a single corner of a very large world.

## The Values of a General Theory

The values of our building a general theory of preventive law (or the costs of our failing to do so) may be obvious, particularly to an academic audience. They have consequences for each of the three areas of interest to us—the classroom, the practice, and our scholarship.

For the practice, an analytical infrastructure helps to organize and make sense of experience. With a common taxonomy and a common vocabulary, what would otherwise be disconnected events can become communicable and replicable ideas. They can be evaluated and tested and accumulated and *shared*. Good theory makes experience usable.

In the classroom it is (or should be) one of our goals to help our students achieve insights from their observations. In that effort, deep structure is as essential as description is. In Contracts, for example, we do not teach the law of mistake and the law of frustration of purpose as though they were disconnected points of light in an otherwise unstructured void. We draw from them, even if sometimes we torture from them, thematic and analytical commonalities. And we do so not just for the sake of classification, but for the much more important purpose of enhancing our students' abilities to use and grow with the several concepts in their professional thoughts and lives. Likewise in Torts: it might be journeyman-like enough to teach the several simultaneous theories of civil liability along with a schedule of the circumstances for the application of each. But we do much more: we teach the locations of those theories within the larger social purposes which tort law is thought to serve. Again our purpose is at least partly to make the doctrine usable across time and circumstance.

So, then, in the area of prevention. Every Business Planning professor, I would guess, takes the class through the features of a small business cross-purchase agreement. Would it not also be useful for the students to learn the more general notion of which such clauses are instances? ("The preservation of bargaining power through the unfolding of a transaction," for example; and then to a layer even deeper than that.) A coherent theory of whatever it is that we're teaching is indispensable to our teaching it adequately. And it is intellectually respectable to construct a theory which grows from experience. If it were not, no natural or social science could sit at high table in any university hall.

As Thomas Kuhn has suggested, one of the effects of a paradigm is that it schedules the research activities of the scholars working in the field. If the paradigm of the universe is heliocentric, little effort will be devoted to testing geocentric theories. If the paradigm of the law is court-based and advocacy-focused, we risk ignoring the study of areas which have actual existence and significant meaning, but which are not identified for investigation by the consensus of what is important in the field. I shall offer some examples of that momentarily. At this point it might be worth asking whether a coherent theory of preventive law is even possible.

## Defining the Field

It has been difficult to fashion a definition of preventive law which meets with universal nods of recognition. The typical objections to our efforts, both from practitioners and from legal scholars, fall most often into three categories. The first is, that preventive law is everything rather than something, and is therefore not usefully marked off for any special attention.

But that may not really matter. Even if—nay, especially if—preventive law is just a bad name for the residuum of law practice left after court-focused lawyering is removed, the inadequacy of the name does not diminish the need for an understanding of its operations deeper than the fragmented one which we presently have.

Linked to the "Is it something rather than everything?" objection is the related one, "But it's obvious." Perhaps, but so is Newtonian physics, and in just the very same way. After some little practice nearly anyone can make a billiard ball go more or less toward the pocket and at an acceptable rate of speed. The effects and the operations of the principles of physics are in that sense obvious, and easily learned as matters of rote behavior. But to make the billiard ball into the Voyager, and to make the planetary grand tour work, takes rather a more explicit attention to the systematic (and therefore more usable) principles of the physics business.

The third objection is that "We already do that; we just don't call it preventive law." True, sometimes, though less often than we in the law schools think we do. But in any case it is, as I have suggested, like Molière's new gentleman, who realized only after he had been speaking for years that what he was speaking was prose. Deep structure is what we should strive for, not just isolated skill.

Here, in any case, is a definition, or more likely a statement of jurisdiction or scope:

Preventive law includes the operations of lawyers and their clients, on matters generally not then the subject of juridical contest or dispute, aimed at advancing the client's purpose (within the law), and of assuring in an efficient way that those purposes are not later encumbered with the costs of unproductive legal dispute, and effected through the optimal arrangement of the client's affairs and the legal instruments which deal with them.

Not surprisingly, educational innovation is a key element of our plan for the law school. One of the themes our faculty has endorsed as guiding our curricular development is that of preventive law. We all know that one of the significant lawyering roles is to help clients plan their affairs and achieve their goals with minimal risk that legal disputes will erupt and fester. And yet this aspect of lawyering is given little emphasis in most law schools' curricula. Neither planning as an intellectual process nor dispute prevention as a lawyering skill is recognized as a comprehensive subject.

Although we as a faculty have many ideas for developing preventive law within our curriculum, we also know that we should tap into the best thinking in academia generally. Happily, our faculty workshops give us a splendid opportunity to do so. These are informal presentations of thought-in-progress by one of our own faculty or by a scholar from another law school. The series allows us to keep current on some of the best thinking in various fields. To explore the preventive law theme, we called on one of the movement's founders, Ed Dauer, to lead a workshop discussion on preventive law in the law school curriculum. So stimulating and comprehensive were his remarks that I urged him to preserve them in writing and, further, to allow us to print his paper here. He has graciously agreed to give our graduates and friends a first look at his thoughts on this subject.

Peter M. Gerhart  
Dean



From that definition (which really does claim most of the Western Hemisphere as its own) some of the distinguishing characteristics of the field may be gleaned. One which pops out immediately is the centrality of the client. *Client* is a word which law students can avoid ever hearing through all three years of law school if they are careful about where they step. The focus of the lawyer's activity, however, is the client's purpose, not the law's. The law is at once the instrument and a parameter, but most certainly not the purpose. There are, however, two even more significant features to the field—an analytical upending, and a note about the visibility of legal decision-making.

## The Analytic Shift

To move from "curative" law to "preventive" law is to effect a shift in the analytical scheme of things, from the taxonomy of legal theory to the environment of the operative facts. I should explain with an analogy. In one of the early textbooks on preventive medicine, published at a time when that discipline was itself struggling to attain a professional respectability, there was written a line which I found so simple and yet so powerful that it has become a starting point for much of my own thinking. That line was this: "From the point of view of curative medicine, bronchiogenic carcinoma is best classified with other cancers. From the point of view of preventive medicine, the same disease is best classified with diseases caused by smoking."

There are several suggestive implications of that line. First, from the perspective of the scientist, the shift from cure to prevention requires a radical shift in taxonomies. The language and the conceptual paradigms of the science which underlie the curative practitioner's art are insufficient to support investigations, of either a basic or an applied nature, into the realm of the preventive. This problem is particularly difficult for lawyers, perhaps; we have been trained to believe that every manner of human misery or nobility or greed can be brought to the law and that the law will have something to say about it. The role of judges and lawyers is to translate the facts of the civilian's matter into a specialized language with highly organized yet very finite numbers of categories, so that (for example) broken bicycles and schizoid computers both become implied warranties of merchantability; frustrated consumer borrowers become Regulation Z claimants; and angry employees initiate claims not for anger, but for OSHA. But reality is stubbornly different: "squeeze-outs" in close corporations can have their genesis in sibling rivalry, but they never originate from the provisions of the Corporation Code.

Lawyers translate reality into the language of the law and then treat of it. They classify cancers as cancers. Preventive lawyering requires classification into another set of analytical categories, like "diseases caused by angry employees" or "lawsuits brought by peeved borrowers." The solutions to the preventive problem lie then in dealing with the categories of that new language. And to be effective in the delivery of preventive legal services we must be skilled at the analysis of causes not in our law, but in our clients' facts.

A second implication of this "taxonomic shift" can be seen in the dynamics of the lawyer-client consultation, or what theorists of that phenomenon call the counseling dyad. For a matter in litigation, the operative language is predominately the lawyer's. The expertise and therefore the balance of power and authority between the client and the lawyer is unbalanced in the lawyer's way. In the preventive or planning consultation, the ratios of knowledge and expertise are shifted towards the client; *there* is where the parameters of the necessary and the possible are established, and only one of them is the law. We have shifted from factually relevant law to legally relevant facts. The consequences for our arts of counseling are large.

A third and related effect is suggested by further extension of the analogy to preventive medicine, though I will admit that at this remove the analogy may or may not be meaningful. It is that in medicine, cure is high-tech; prevention sometimes is and sometimes isn't. Physicians who attempt to cure cancer get to work with state-of-the-art chemistry, with nuclear resonance and magnetic imaging. Physicians whose work is in the preventive get to work with cigarettes and sewers, and swamps and oat bran. Lawyers who work in court manipulate institutions and processes whose innards are known pretty much only to us; they are *our* technologies. Lawyers who work preventively work in fields where our technologies are secondary to our clients'. When the facts are as important as the law is, our sole possession of the ritual secrets becomes less of a pedestal. Only lawyers (in litigation) can make a Rule 12(b)(6) motion based on a section 12A-2-607(1)(c) defense; but we are not monopolists in the area of predicting human behavior—the central art of the transactional preventive lawyer.

## Low Visibility Decisions

Equally implicit in our definition of preventive law is the idea that lawyers make decisions for and about their clients. Tom Shaffer made the point well, if overstated a bit, when he suggested that the decisions which his father's lawyer made about his father's will have affected Tom's life at least as much as "anything the federal court of appeals will ever do."

Lawyers practicing advocacy also make decisions; there is nothing unique here. But there are some things worth noting, particularly when we compare the decisions of lawyers doing preventive law with the decisions made by courts. The first is that the lawyers' decisions are vastly more numerous. They are also in a very important sense authoritative: even though a client can decline the lawyer's advice, as a practical matter a lawyer's opinions on questions of law (and often more) are imbued by the cloak of licensure with an authority that goes beyond what other professionals might say in their respective fields. Lawyers' decisions are binding, often without a right of appeal: a signature on the contract is not subject to the scrutiny of any reviewing body. It is what it is and cannot unilaterally be changed even if it is "wrong."

Most important, however, is the fact that these lawyer decisions are of an exceedingly low visibility. The number of lawyer-drawn documents that come to the attention of the formal legal system is trivial; in the vast majority of cases "we" know nothing about what or how those life-affecting decisions did or came about. And that is a serious gap.

## Implications for Research and Opportunities for Scholarship

### A Comprehensive Jurisprudence

The two central characteristics of preventive law which are derived from its definition—the analytical shift and the low visibility of its operations—in turn generate some very interesting opportunities for academic investigation, opportunities that can be strongly illuminated by this elaboration of our conventional paradigm. One set of issues has to do with jurisprudence itself.

Several of our contemporary schools of jurisprudence are concerned with the relationship between the construction of legal rules and the ordering of individual and collective behaviors. The sociologists, economists, perhaps even the anthropologists (and the critical legal theorists too) among our jurisprudence scholars discuss doctrine in terms of its incen-



tive and disincentive effects on social action: this little fillip in the rule will result in greater resource efficiency, or more "tolerable" political actions than that one will and so . . . etc. and etc.

Consider now how the effectuation of a rule of law *actually* works. The conduit from norm articulation to altered behavior is, perhaps as often as not, the law office. People—ordinary non-lawyer-type people—do not read appellate reports. Some do read the quasi-legal literature in their fields of commerce, but even with that the perfusion of legal rules through society is not self-actuating. Lawyers translate laws into behavioral guidelines, through the process of counseling their clients. And much more so in the realm of the preventive, where the facts are still up for grabs, than in the litigative where the important facts have already happened.

If then the inquiry of some forms of jurisprudence is the connection between rule and action, a study of the activities of lawyers would seem to be essential. Here is where the low visibility of lawyers' decisions takes its toll.

Yet even more fundamentally, if we accept as a working definition of jurisprudence the idea that it strives to describe the behavior of decisional institutions in the law, then the observation about lawyers' decisions becomes a fact of considerable interest. We are eternally interested in the factors that cause courts to decide things one way rather than the next, with the forces that impel them to move and with the devices by which they do so. We know, by contrast, almost nothing about a similar "field theory" of lawyers' decisions. It is the case that client A consulting with lawyer X may be guided in a way different than client B with lawyer Y would be (or even client B with lawyer X). The effects of law on the lives of people, that is, are modulated through the counselings of their lawyers. What forces cause those differences or similarities? The economics of the practice is one; some have suggested the sociology of the profession, and its own internal culture. Surely the rules of malpractice and professional responsibility have a role. What else? We hardly know.

The point of all this is only to say that by taking seriously the social consequences of lawyers' preventive roles we can open a new set of windows into an understanding of the whole of the legal system—nothing less than a more comprehensive jurisprudence.

## Ethics and Professional Responsibility

Issues in professional responsibility for the advocate are difficult, it is true. But in one sense they are more easily posed and debated than are cognate problems in the realm of prevention. In advocacy we begin with the existence of a court—a neutral tribunal in which the role of the lawyer is basically known. The lawyer is to champion the cause of the client, whether the kingdom fall or not. The lawyer on the other side does likewise, and the existence of the court makes it all work out. The presumption of the neutral tribunal provides a leeway for the lawyer's actions on behalf of the client. Except for those who would question the system itself, there is in advocacy problems a heuristic-by-consensus.

Suppose now that a client asks a lawyer, who is then drafting a form contract for a lease or a time purchase or the like, to include a clause which may be legally unenforceable but which will have an undoubted "in terrorem" effect on the consumer or tenant who signs it. (And assume further that the effect of including the clause is not to void the entire contract, nor to subject the author to any civil or criminal liability.) The simple facts of life are that most contracts don't get reviewed by courts. Most tenants and consumers with disputes are governed by the words on the paper, not by their technical legal effects. Should the lawyer draft such a clause for the

client? There is no neutral tribunal here. Zealous advocacy will not yield justice, for there is no advocate on the other side. These sorts of questions go to the heart of the lawyer's place; they are at least as difficult as those which arise in court, yet they are far less often addressed.

## Basic Research—"Legal Epidemiology"

"From the point of view of preventive medicine, bronchiogenic carcinoma is best classified with diseases caused by smoking." Malaria comes from swamps, and cholera from inadequate sewage systems. The *cure* for AIDS isn't known yet, but it will surely be at the leading edge of biochemistry. The *preventive* for AIDS is already well known. It was not found by searching through the biochemistry texts; it was found by statistical epidemiologists working with the facts of life.

A bank with a heavy load of Regulation Z lawsuits doesn't find the answer to its excess legal costs in its Truth-in-Lending forms or even in the banking law texts. It finds them instead in the internal incentives which its branch managers have to deal with defaulting borrowers in particular ways that create rather than diminish the probability of litigation and a defensive strike through a TIL claim.

In one of the most outstanding pieces of preventive law scholarship that I have thus far seen, F. Hodge O'Neal analyzed the causes and cures for squeeze-outs of minority shareholders—not by parsing the categories of corporation law, but rather by classifying the social configurations which tend to lead to squeeze-outs as strategies rather than as legal problems in themselves. His opening chapters had to do not with legal things, but with aged founders, sibling rivalries, profligate brothers-in-law, differential abilities among owners, and other denizens of the disrupted deal.

Is it possible to generalize from these and related studies? The facts of life are infinite; can a general theory be constructed to aid in the search for the vectors of legal disease? Can we, that is to say, create a new taxonomy to impress on our analytical shift? This is the stuff of empirical work. We found the Legionnaires' bacterium by crawling into an air conditioning duct. But surely we didn't find that it was in a duct by crawling randomly into all manner of unpleasant things. Can law develop its own general etiologies? The opportunities for basic research abound.

## Applied Research—Tools and Protocols

Among the more well-developed tools in the preventive law kitbag is the corporate compliance system made up of in-house education, feedback loops, audits, and so on—a process of assuring that the corporation does not inadvertently run afoul of some area of regulatory law. Excellent systems have been devised for nearly all of the major regulatory areas. But even here, where the stones would appear to have been polished fine, the opportunity and need for academic research are broad. Prevention in the law is a high-tech enterprise: Sigler and Murphy, for example, have begun to inquire about how these privately-constructed compliance systems might best be integrated with governmental systems in the administrative agencies. Similar dialogues between the needs of the practice and the theories of the legal system are possible with respect to document retention programs, legal audits, employee grievance processes, and the numerous other activities in which counsel engage.



## In Pursuit of GUTs

I have wondered from time to time why it is that our colleagues in the physical sciences are so firmly committed to the pursuit of a Grand Unified Theory of everything (or at least of the four natural forces). Perhaps it is only a trait of the species to be curious, or to find meaning in order. But it may also be more instrumental than that: a GUT might provide the mother lode equation from which verifications of theories in the several pre-unified domains can be derived, or by which new insights are made possible. Surely our understanding of any phenomenon is richened by our seeing it in the context of a larger whole, and within a system whose deeper structure can be described. We ridicule today the nineteenth-century scientists who "explained" the workings of anesthesia by saying that it had a dormative power. That is simply not enough.

The social psychology that lies behind what I have called legal epidemiology could, if more fully understood, shed light on even classical jurisprudence. The two together, combined with a systematic knowledge of lawyering operations, could describe the reality of our system of social order in ways that have not thus far been seen—and thereby advance our instrumental purpose of effecting a more perfect justice. Preventive law needs GUTs.

## Further Notes from the Practice

The point of this exercise, I should say again, is to describe the reasons, and ways, in which preventive law, which has now found shelter and friendship in the practice, should find sustenance and nurture in the law schools. The implications for scholarship and for both basic and applied research I have just addressed, though there is even more there that could have been said. The other half of the argument has to do with teaching. But before we turn to that it would be useful to say one or two additional things about the nature of preventive law in the practice, since that is irrefutably where most of our students will apply what it is that our schools have taught them.

I can illustrate the point by adding to the definition of the subject, or perhaps by slicing its theory in a different way. There are, for the sake of analytical convenience, three domains in which prevention can occur: the primary, the secondary and (what else?) the tertiary. Keep malaria in mind. And keep in mind the facts of a wonderful old case called *In re St. Claire Estate Company*. The owner of a successful closely-held corporation willed it in equal shares to his daughter and his three sons, who then spent the better part of their adult lives suing each other over the operation and distribution of the proceeds of the corporation. The final judicial opinion concluded the drama by liquidating what could have been a very profitable enterprise.

Primary preventive law attends to arrangements of the basic facts in the environment of a transaction, with the goal of keeping the causes of disruption from ever arising. We can prevent malaria by draining the swamps where the mosquitoes that carry the virus breed. If we keep the causes from arising, the disease is unlikely to appear. And so the *paterfamilias* of the company and the family might have done something like spin out separate corporations united by contract, rather than leave one divided by conflict. Lawyers working in the primary area need to have ways of understanding the root causes of legal disputes, ways of generating alternative constructions so as to minimize those causes, and procedures for assessing the legal and pragmatic advantages of each *in the context* of the client's aspirations and possibilities. Experienced lawyers may do all this "intuitively." But again, coherent theory makes experience usable.

Secondary prevention focuses on keeping the causative agents from doing damage, in settings where they cannot be entirely kept from ever arising. If mosquitoes can't be kept from breeding and feeding, then perhaps the patient can be immunized against the disease so that the introduction of the vector causes no harm. Or in *St. Claire*, a set of well-drafted and well-funded cross-purchase options might not prevent the kids from hating each other, but it could defang that hatred by protecting the collectivity (or the corporation) against the harm that might otherwise come from it. Once again, experienced lawyers seem to know what sorts of things will work, but I wonder if they really know as much as they could. In medicine, for example, data are routinely kept and made available for analysis about the efficacy of various forms of pharmaceutical snake oil. Lawyers don't share such data, about what worked and what didn't, for a variety of good and bad reasons, including perhaps our customs of confidentiality and competition. And I for one doubt that even within a single firm (or even a single lawyer) the information is much more than anecdotal and impressionistic. Yet lawyers (and law students) need exactly that sort of information. It does not generally appear in the books; we do not have (as medicine does) institutional or standardized reporting formats for *nonlitigation* happenings. Form books offer clauses "tested" in the crucible of the court. But if it is true that for most people winning a lawsuit is the second worst thing that can happen, by far the better information would be to know what sorts of secondary preventive devices actually work to keep the harm from coming about. We do have experience; and the good ones among us have judgment. But we do not have good data, and we have only the rudiments of a theory.

Tertiary prevention assumes that the cause will arise, and that it cannot be kept from causing some sort of disruption; but it assumes further that it is possible to minimize the inevitable damage and to contain its effects. Some mosquitoes will inevitably breed; and some of the disease agents they carry will be non-viral and therefore not amenable to prevention by immunization. What is left then is palliative—drugs to keep the fever down, to contain the infection and to minimize its ability to impair the functioning of related organs. In *St. Claire* and things like it, tertiary prevention would include the linkage between preventive law and ADR: mandatory mediation or arbitration in lieu of disruptive litigation, for example.

In every transaction or arrangement made for a client there is a menu of possibilities from each of these three domains. How can the optimal blend be ascertained? Counseling and interviewing are the ways of understanding the parameters of the client's facts, but even here the client's very purpose can shift as the options are explored. The mix is a rich one: facts, law, needs, experience . . . Making sense and utility of it all is what the lawyer does.

And then, of course, there are the questions of delivery, and of educating clients into an appreciation of the benefits of legal risk prevention. How can preventive services be made more cost-effective? Are they amenable to financing through, for example, legal cost insurance, in ways that generate economies of scale? And what, in the development of the field, is the role of the organized bar vis-à-vis the individual lawyer and firm? These questions too are on the desks of the lawyer not too very long after the diploma is hung.

## Preventive Law in Legal Education

The specification of desired competencies is the starting point of curricular design. That, perhaps, is excuse enough for all that I have been saying here. The jurisprudential sensitivities and the practice operations of preventive law are the components of that part of lawyering which are in my view inadequately represented in the standard law school curriculum.



Another matter, which I shall mention only briefly, is that of general predisposition. Whether the Langdellian case method is good or bad depends upon what one is trying to teach. But it does have, I believe, a side effect which is inadvertent and pernicious: it makes all law look like advocacy. Our text materials are all cases; until very recently our moots were all trials and appeals; and our clinics with scant exceptions are oriented toward the representation of clients in court. The standard law school curriculum is *suffused* with disputation. And so our students learn to see the law through the narrowed windows of its role in dispute processing long before they learn, if they ever do, its far more frequent role in the mixture towards dispute avoidance. But undoing all of that would be a far more radical proposal than I am prepared to make. It would be giant step enough if some preventive law could be introduced somewhere along the way, not replacing but enhancing the ways in which our students are presently allowed to see the workings of the law.

Louis Brown and I, and others, have offered elsewhere some recipes for amendments to the law school curriculum—a fair variety of different ways in which some of these competencies might be factored in. There is no need to repeat them here, and that for two rather different reasons. The first is that this essay was not meant to be a curricular design; it was meant

rather to be the conceptual statement from which curricular design notes might proceed. And the second is another deferring to reality: the way in which any one law school's curriculum should address some new argument must respect the traditions by which that curriculum came about. Preventive law is and should be no trenchant competitor to the present state of things. That it belongs in law schools much more than it presently appears, is clear; but it should come when it comes as a partner to what already is. It is important, after all, that we avoid any unnecessary disputes.

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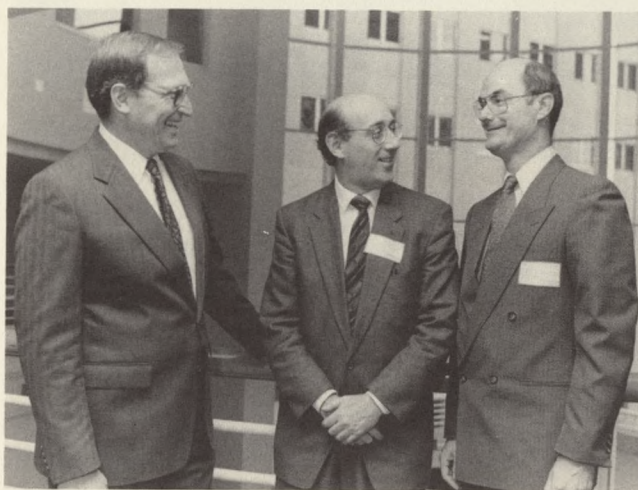
*A Footnote: For nearly twenty years I have enjoyed a partnership and a friendship with my mentor in the field of preventive law, Professor Louis M. Brown. Perhaps because that collaboration has been so successful, it is difficult for me to keep straight which ideas are mine and which are his. It may be that many of the ones discussed in this essay are his. I really don't know; and except for the pleasure of recording my debt to him in footnotes such as this, it really doesn't matter.—E.A.D.*

## Preventing Mass Tort Cases (and if that fails, try ADR)

When Professor Edward Dauer of the University of Denver spoke to the CWRU law faculty about preventive law, he was preaching to the already converted. Preventive law and its cousin, alternative dispute resolution, have figured largely in our curricular discussions. Most notably, Professor Wilbur C. Leatherberry '68 and Professor Paul F. Gerhart of the Weatherhead School of Management (no relation to law dean Peter Gerhart) have been working on the team-teaching of ADR to law and management students, developing materials and teaching techniques with support from the Cleveland Foundation.

The latest episode in their ongoing efforts was a daylong conference in November: ADR Approaches to the Avoidance and Management of Multi-Plaintiff Tort Cases. They invited a carefully selected group of twenty-five lawyers and managers whose work relates to products liability: plaintiffs' lawyers, insurance defense lawyers, defense lawyers who represent self-insured companies, one lawyer and one manager from the insurance industry, and inside counsel, risk managers, and line managers from major Cleveland companies.

The morning session focused on ADR approaches to mass tort cases. It began with a presentation by Kenneth R. Feinberg, a partner in the Washington office of Kaye, Scholer, Fierman, Hays & Handler. Because of his work as a special master in the Agent Orange, Dalkon Shield, and other major mass tort cases, Feinberg is nationally known as a proponent of mediation as a means of settling numbers of cases caused by the same product defect or toxic substance. Besides being a settlement master for Judges Jack Weinstein and Robert Mehrige, he has served as a private mediator in more than thirty diverse disputes.



*Paul Gerhart, Kenneth Feinberg, and Bill Leatherberry. Professors Gerhart and Leatherberry organized the ADR conference in November; Feinberg was one of the featured speakers.*

Mass tort cases typically involve multiple defendants and hundreds of thousands of claimants. Feinberg recounted some of his own experiences, outlining his general approach to mass tort cases, then turned his attention to the simulation exercise that the participants would soon confront: by comparison, he said, this was "a piece of cake" for a mediator.

The case involved 72 claims against North Coast Gaskets Inc., maker of gaskets which Kibuta Motors Company has installed in the braking system of its Gonzo automobile and which have



proved defective, causing numerous brake failure accidents. Kibuta has recalled all 40,000 cars sold with the bad gaskets, and North Coast has absorbed the cost. Now Kibuta is in bankruptcy, and therefore claimants are focused on the gasket manufacturer and its liability insurer, Calamity General. Seeking to devise a process by which North Coast can efficiently settle the multiple claims, the company's in-house counsel calls a meeting to discuss possible processes and invites Calamity's defense attorney, North Coast's outside counsel, a representative of Calamity's claims department, and attorneys for several of the plaintiffs. Conference participants each played a role in this meeting, in four separate groups. Following the simulation, the entire group reconvened to compare approaches.

The afternoon session dealt with prevention of products liability. Donald E. Esker, assistant vice president and safety consultant from M & M Management Consultants, a division of the Marsh and McLennan insurance brokerage company, spoke about management approaches to risk reduction and liability prevention.

Another simulation followed, this one entitled Toys for Torts. Each participant was given a role in a meeting in which Premier Amusements must decide whether to market a new toy gun; the gun fires pellets that break on impact, releasing a blood-colored fluid. Six groups grappled with the question, each with four role-playing participants: the in-house counsel, the outside counsel, the marketing manager responsible for the product, and the financial manager responsible for balancing liability risks against the expected returns. They considered various options: not marketing the gun at all, marketing it with modifications, marketing it with a warning. Some groups decided that the anticipated profits did not justify the risks of marketing, especially considering the possible damage to Premier's reputation on top of the likely liability claims. Others were willing to market the gun, but only with modifications to reduce the risk of injury.

Last year a similar conference of lawyers and managers worked with two simulation exercises designed by Leatherberry and Gerhart; those exercises are now in use in ADR courses that include both management and law students. The exercises tested in this year's conference will likewise become teaching materials.



Two conference participants: Kurt Karakul '79 and Paul Eklund '78.

The November conference was a spirited affair. Participants argued for widely differing approaches to the problems posed, and afterwards offered good suggestions for making the simulation exercises more realistic and more challenging. Given the nature of the issues and the quality of the participants, that was not surprising, said Professor Leatherberry. He added: "What should be more surprising is that the different groups of professionals who have to deal with difficult public policy matters like mass torts so seldom have the opportunity for constructive interchange of ideas."

## **An Important Notice About Alumni Address Records**

*The Case Western Reserve University School of Law NEVER makes alumni addresses and telephone numbers available for general commercial purposes.*

*However, we do share such information with other alumni and often with current students, and we respond to telephone inquiries whenever the caller seems to have a legitimate purpose in locating a particular graduate. In general our policy is to be open and helpful, because we believe the benefits to everyone outweigh the risks.*

*If you want your own address records to be more severely restricted, please put your request in writing to the Director of Publications and External Affairs, Case Western Reserve University School of Law, 11075 East Boulevard, Cleveland, Ohio 44106.*



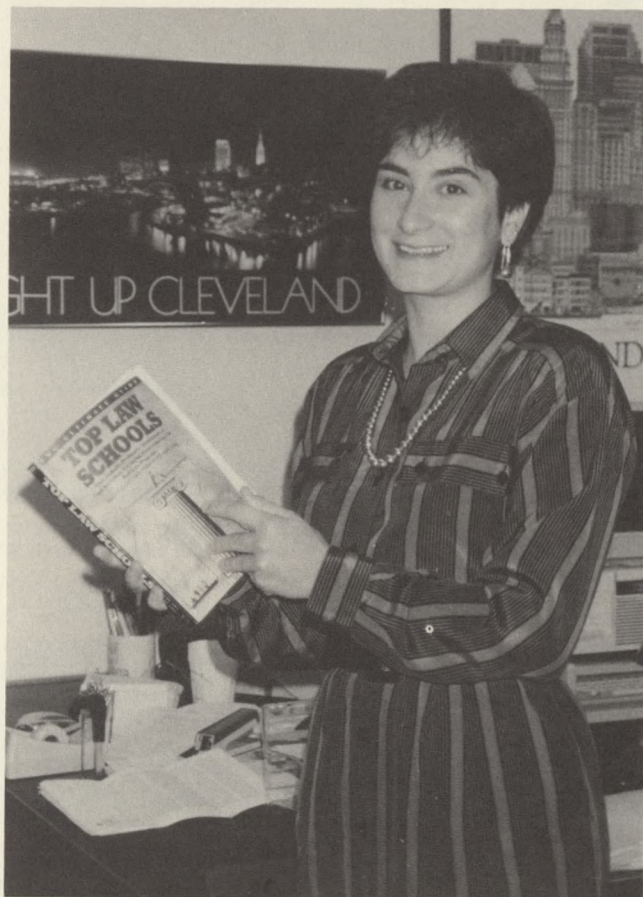
# Top Law Schools: CWRU Included

Good news—*very* good news—for the law school and its admissions effort. “The Ultimate Guide” (recently published) to law schools, *Top Law Schools* by Bruce S. Stuart and Kim D. Stuart, profiles the 56 law schools that the authors judge to be the “best” in the nation. CWRU is among them, and in fact ours is the only school in Ohio to be included. The schools are listed alphabetically; the authors make no attempt at a ranking.

The book, of course, is aimed at law school applicants. Its subtitle explains the methodology: “What Students, Professors, Administrators, and Recruiters Are Saying About America’s 56 Best Law Programs.” The authors began by studying bulletins and mailing questionnaires, then interviewed students by telephone, sent more questionnaires, attended admissions conferences, talked to admissions officers, sent questionnaires to recruiting employers and followed up with interviews, and finally visited the campuses for face-to-face conversations with students, faculty, and administrators.

For this law school the result of the process was a rating of 4 (of a possible 5) in admissions selectivity and placement reputation and a grade of A- on quality of teaching and faculty accessibility. Be it noted that few schools were rated higher for quality of teaching; evidently the standards were tough. The University of Chicago got a B-, Columbia B, Georgetown B+ / B, Harvard B+, Michigan B+ / A-, Virginia B, and Yale B+ / A-.

The paragraphs introducing the CWRU section of the book may be even more flattering. After describing the “dynamic” Barbara Andelman, assistant dean for admissions, as a “one-woman committee for ‘I Love Cleveland,’” the authors go on: “She has also shown numerous applicants what it means to be excited about a law school. And for all of you Doubting Thomases and Thomasinas, there’s one thing you should know: this ‘hidden treasure,’ perceived highly by both students and recruiters, who regard the school’s graduates as ‘incredibly diverse . . . highly insightful, possessing strong written communication skills,’” is well worth getting excited about.



*Barbara Andelman, assistant dean for admissions and financial aid, impressed the authors as a dynamic spokeswoman for CWRU and for Cleveland.*

As of this writing (December 1) applications for next fall are up 83 percent over the number in hand one year ago—and last year was a very good admissions year. We believe that we can expect some 2,500 applications for the 250 places in the 1991 entering class, and some of them we may owe to “The Ultimate Guide.” Its glowing report on Case Western Reserve certainly makes it clear that many people speak well of us, all around the country. We can be pleased when good words come back to us, and even more pleased when they go out to a wider public.



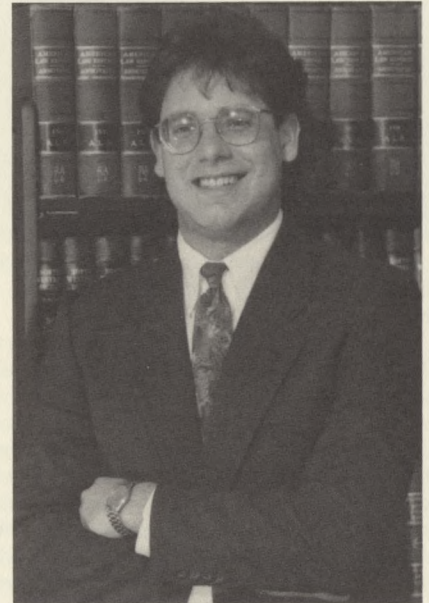
# 1990 Graduate Wins National Prize

Robert E. Murdock '90 has won first prize in the annual essay competition sponsored by the American Judges Association. His paper, "Hedonic Damages in Survival Actions," will be published in the AJA's journal, *Court Review*. It originated as an independent study project that Murdock undertook as a third-year law student under the direction of Professor Robert Strassfeld.

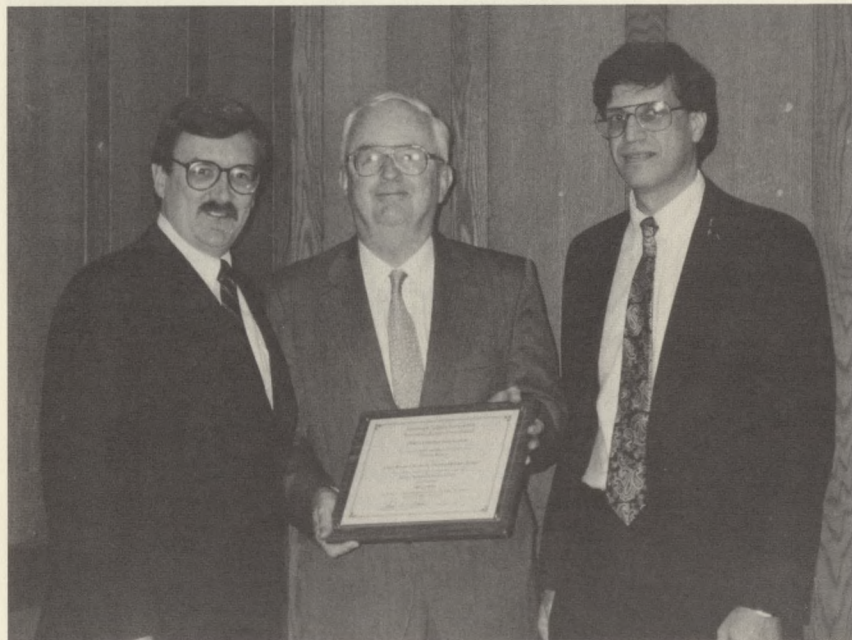
In the paper Murdock takes the position (contrary to that of most state supreme courts) that hedonic damages, or the loss of the ability to enjoy life, is the loss of a personal asset, and that the estate should be able to sue for damages in a case where the decedent lost that ability. "The ability to enjoy life," he ex-

plained to *In Brief*, "encompasses the completeness of one's existence, including the moral value, philosophical value, and all of the value that one may obtain in the enjoyment of life. I believe that the loss of that value, the hedonic value, should be compensated. While many courts agree that hedonic value is a compensable element of damages, I go one step further: I think that in an action where the estate is suing under a survival statute, such damages should be compensable there as well."

Murdock, who recently passed the Nevada bar exam, is a litigation associate with the state's largest firm—Beckley, Singleton, De Lanoy, Jemison & List in Las Vegas. A native Philadelphian, he



Robert Murdock '90 won first prize in the American Judges Association's national essay competition.



Robert J. Grogan '51, judge of the Lyndhurst Municipal Court, presented Dean Peter Gerhart with a plaque from the American Judges Association commemorating the law school's first prize. With them is Professor Robert Strassfeld, who directed Robert Murdock's writing project. Murdock was in Nevada at the time of the presentation and had to receive his own plaque by mail.

took his undergraduate degree at the University of Denver and, before starting law school, spent a year as a proof-reader in the Cleveland office of Baker & Hostetler. As a law student he was an editor of *Health Matrix*, a founding member of the CWRU chapter of the Federalist Society, and a law clerk with the Cleveland firm of Nurenberg, Plevin, Heller & McCarthy.

In a letter notifying Dean Peter Gerhart of the award, the chairman of the AJA Publications Committee, Martin Kravarik, wrote: "The reviewers were most impressed with the content and style of this entry, and believe that in addition to being a fine example of Mr. Murdock's abilities, the paper is an excellent reflection on the quality of education he received at your fine institution."



# 1990 Alumni Weekend

Once again September witnessed a grand convergence of CWRU law graduates from all over the country, back in Cleveland for the annual Law Alumni Weekend. Some took advantage of CLE programs on Friday and Saturday, and many came to Gund Hall for the opening cocktail reception on Friday and the Alumni Awards Luncheon on Saturday.

For a lot of people the big draw was one of the class reunions Saturday night. There were nine of them, plus an early-evening reception hosted by the Black Law Students Association. They were spread across the county from Cleveland's west side out east to Moreland Hills, many of them in private homes.



Joe ('40) and Dave ('36) Sindell.



1933 classmates: Bob Moss, Stan Webster, Joe Ranallo, Harry Jaffe, Walter Whitlatch.

Many, many thanks to the hosts: Nancy and Rush McKnight '55, Kathy and Myron Stoll '60, Rita Braves and John Marksz '65, Terry and Mary Ann Jorgenson '75, Michael Maguire and Rosemary Macedonio '80.

The 25-year class, 1965, won the best attendance prize with better than 50 percent, but the class of 1955, with just under half, gave them a run for their money. Overall, we counted up at least 45 out-of-staters who came back for a

reunion, representing 22 states plus the District of Columbia and Canada. The 22 states included Alaska (Jack Litmer '80) and Hawaii (John Terry '55).

Now we are looking ahead to the 1991 Alumni Weekend—Friday and Saturday, September 20 and 21. Mark your calendar! And if your graduation year ends in -1 or -6, you might like to help plan the class reunion. Call 216/368-3860 to volunteer.

## Class Reunions

### Class of 1940

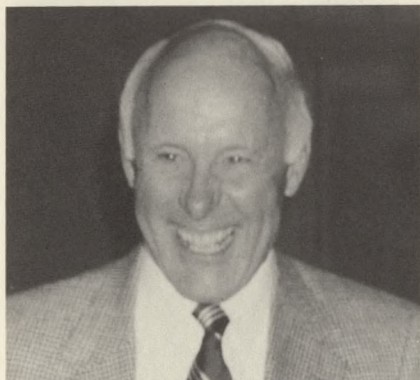
Almost half the class came to celebrate the 50th anniversary, and they came from all over the country. From top to bottom (and left to right, somewhat haphazardly) in the photo: Harry Leet (Maryland), Irv Milner, John Keenan (West Virginia), Hub Evans (Colorado), Sherm Dye, Ray Morris (Louisiana), Bunny Goldfarb, John Drain, Joe Babin, Dean Peter Gerhart, Joe Sindell (California), Ted Robinson (Illinois), Frank Judson (Pennsylvania). Babin, Dye, Goldfarb, and Bill Walker were the local organizers, with long-distance assistance from Morris, Evans, and Jim Fay.



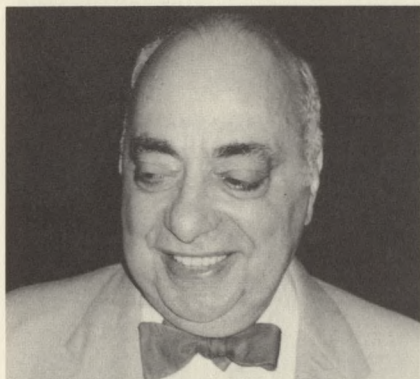


## Class of 1950

The 40-year reunion committee—Mel Andrews, Fred Kidder, Charlie Kitchen, Tom Murphy, Parker Orr, Dick Renkert, Rollie Strasshofer, Chuck Tricarichi, Jack Whitney—gathered nearly a third of their classmates for dinner on the CWRU campus. Bill Martin came from Minnesota, Kent Taylor from Georgia, and Bob Renner from New York.



Charles Kitchen



Charles Tricarichi



Wallace Steffen, Kent Taylor, and Bill Martin.



Bob Renner



Paul Christoff

## Class of 1955

Nancy and Rush McKnight invited the class to celebrate the 35th at their home in Moreland Hills, and nearly half the class accepted. Jack Terry (Hawaii) won the distance prize, edging out Al Riedel (Texas), Alex Melgun (California), Don Lefton (Florida), and Bill Cawley (Connecticut). The planning committee consisted of McKnight, Cawley, Riedel, Bill Ziegler, Denny Clunk, Jim Wanner, Bill Wallace, Bernie Niehaus, Mike Gavin, Dick Fromson, Angela Carlin, and Russell Baron.



Lois and Bill Cawley, Harry and Sophie Klide, Jo and Denny Clunk, Kathleen and Bernie Niehaus (almost completely hidden), Marjorie and Mike Gavin.





Jack Terry (foreground), Jim Wanner, Faith Fromson.



Bill and Pat Wallace



Gene Weir and Dick Guster



Alex Melgun and hostess Nancy McKnight

## Class of 1960

Five years ago Kathy and Myron Stoll hosted the 25-year reunion, and they kindly invited the class back again for the 30th. With Myron on the planning committee were Bernie Goodman, Bob Goodman, Neal Lavelle, Shelly Berns, Jack Wilharm, Tim Treadway, Allan Zambie, Jim Young, and out-of-towners Don Guittar and John Kelley. It was a happy evening with a sad footnote: Jim Young suffered a heart attack and died suddenly just a few days afterwards.



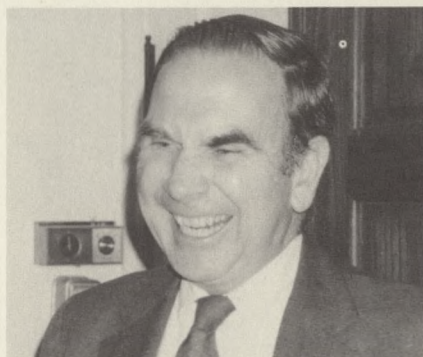
Pam and Josh Kancelbaum, Bob and Joan Lustig.



Hosts Kathy and Myron Stoll



Jack Wilharm



Neal Lavelle



## Class of 1965

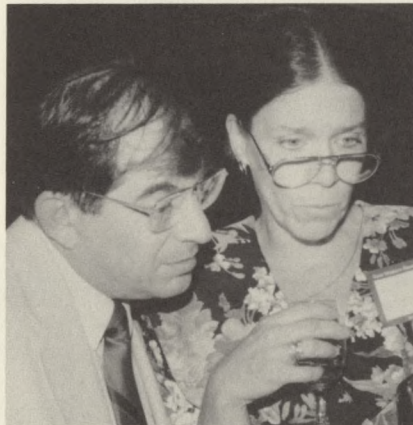
John Marks and Rita Braves hosted a grand celebration in their lakefront backyard, and more than half (!) of the 25-year class showed up for it. Others involved in the organizing were Gene Bayer, Gary Bryenton, Neil McGinness, Shelly Braverman, Bob Balantzow, and Bob Weltman. We conjecture that the phenomenal attendance was largely owing to frequent and insistent telephone calls by class members specially skilled in the techniques of harassment.



*Standing: Bob Amsdell, Christ Boukis, Sandy Gross, Alan Hartman, David Katz, Neil McGinness, Bob Weltman, Jim Gowan, Oakley Andrews, Roger Roth, Fred Inderlied, Bill Petro, Gary Dubin, Rolf Scheidel, Mel Resnick, Gene Bayer. Sitting: John Marks, Larry Friedlander, Bob Balantzow, Shelly Braverman, George Limbert, Bill Chinnock, Jim Murray. Kneeling: Tony Costanzo, Bill Hohmann, Don Levy, Ken Rocco, Norman Rubinoff.*

## Class of 1970

The class of 1970 chose the Shaker Heights Country Club for their 20-year celebration, and a sizeable chunk of the class came to enjoy the party—including Terry Leiden from Georgia, Tom Ackland and John Gulick from California, John Preston from Oklahoma, and Lee Dunn from Massachusetts. Thanks to the planning committee: Mike Drain, Major Eagan, Kerry Dustin, Stu Laven, Tom Liber, John Malone, Bill Lawrence, Don Modica, Susan Stauffer, Dan Wilt, Homer Taft, and out-of-towners Ackland, Dunn, and Jack Bjerke.



*Don Modica and Susan Stauffer*



*Tom Ackland*



*Leonard Young*



*Mike Drain, Elizabeth McAlpine, Major Eagan.*



*Lee Dunn*



## Class of 1975

Mary Ann and Terry Jorgenson hosted the class at their Cleveland Heights home even though (as it turned out) they had to be elsewhere for dinner and miss half of the fun. Tom Corrigan stood in as their deputy. Others on the planning committee were Rick Hauer, Steve Kaufman, Bruce Bogart, George McGaughey, Ed Kramer, Lou Rorimer, Tom McKee, Ken Spanagel, Phil Star, Bob Traci, Marilyn Shea-Stonum, Ralph Tyler, Ed Krumeich, and Alex Zimmer. Karen and Robert Wildau came from Georgia, Carol Tanenbaum and Bill Milks from California, Alex and Mary Ann Zimmer from New York, and Alice Kleinhans from New Hampshire.



*Left to right: Dan Kolick, Ed Round, Don Cybulski, Don Scherzer, Lester Potash. No, the class photocomposite does not permanently reside in the Jorgensons' dining room.*



*Alex Zimmer and Ralph Tyler*



*The men (top to bottom) are George McGaughey, Tom McKee, and Rick Hauer. The woman is unidentified. The dog is Ruffles Jorgenson.*

## Class of 1980

The 10-year class convened in Shaker Heights at the home of Rosemary Macedonio and Michael Maguire. Others who helped to organize the gathering were Eric Kennedy, Marty Hoke, Lorrie Baumgardner and Bill Gagliano, Gayle Bassick, David Zoba, Pat Donnelly, Mary Anne Garvey, Jim Goldsmith, Colleen Flynn Goss, Dave Weibel, Pete Sikora, Hewitt Shaw, and Ro Kiernan Mazanec. Jack Litmer flew in from Alaska, David Zoba and Karen Gerstner from Texas, Andy Lefkowitz and Roy Hoffman from Florida, Gerry Anglin and Richard Neely from Massachusetts, Bill Fee from Indiana, John Bennett and Joel Saltzman from Washington, D.C., David Oakley and Ivy Stempel from New York, and Bill Drescher, Seth Pearlman, and Trischa O'Hanlon from California.



*Eric Kennedy, Seth Pearlman, Ron Gluck, Andy Lefkowitz, Doug Prince.*





Hostess Rosemary Macedonio and Scott Lafferty



Richard Neely and Ro Kiernan Mazanec



Karen Sternbergh Gerstner



The Honorables Bill Fee and Pete Sikora



Gerry Anglin and Bill Drescher



Pat Jacobson

## Class of 1985

Among the travelers to Cleveland for the 5-year bash were Donna DeSilva and Richard Oparil from Washington, D.C., Ruth Kahn from California, Howard Weinstein from Arizona, Bob Bluhm from Texas, Kathy Lennon from Connecticut, Ingrid Sapona from Canada, Fred Wilf from New Jersey, Dan McCabe from Maryland, and southern Ohioans Cynthia Burgin (Cincinnati), Dan Harkins (Springfield), and Don Wirtshafter (Athens). The planning committee consisted of Paul Corrado, Anne Gray, Greg DeGulis, Katy O'Donnell, Bret Treier, Dave Leopold, Larry Zukerman, Ann Harlan Young, Lynne Fischer, Ruth Kahn, Kathy Lennon, Bob Riley, Scott Nortz, Alexis Johnson, and Bruce Shaw. The party began in the Flats at the Flat Iron Cafe, then adjourned to Thornton Rink in Shaker Heights for a round of midnight hockey with Professor Leon Gabinet.



The midnight hockey players. Upright: Greg DeGulis, Bob Ohly, Dan McCabe, John Krajewski, "Gabby," Dan and Denice Ursu, Kathy Lennon. Front row: Bret Treier, Pat Morris, Louis Trampusch, Tom Duffy.





*George and Elizabeth Wukovich*



*Kevin Harlan Young and David Leopold*



*Jon Isaacs, Katy O'Donnell, and Ann Harlan Young.*



*The foreground includes Alan Yanowitz and Fred Wilf, Mike Spreng and John Fickes.*



*Pat Turoff, Ruth Kahn, and Don Wirtshafter. Barely visible are Howard Weinstein, Tina Wallace, and Dan Harkins.*



# 1990 Alumni Awards



## **Eugene B. Schwartz '34** *Fletcher Reed Andrews Graduate of the Year*

Eugene Schwartz '34 was the winner of the 1990 Fletcher Reed Andrews Award, presented annually by the Tau Epsilon Rho fraternity to an exceptionally distinguished CWRU law graduate "whose activities emulate the ideals and accomplishments of Dean Andrews." Irvin M. Milner '40 made the presentation.

Schwartz has practiced law in Cleveland ever since his graduation from law school. His firm—Schwartz, Einhart, Wood & Szuter—specializes in labor law. He has been an active member of the labor law sections of three bar associations: Cleveland, Ohio, and ABA. For the law school he has served as class agent for the Annual Fund and has been a prime mover in class reunion activities. Since 1983 he has been a member of the Society of Benchers.

## **Karen Nelson Moore** *Distinguished Teacher*

Established in 1984 "to recognize a commitment to education and the pursuit of knowledge which has enriched the personal and professional lives of students," the Distinguished Teacher Award was given in 1990 to Karen Nelson Moore, a member of the faculty since 1977. Her former student Margaret Grover '83 was the presenter.

A graduate of Harvard (B.A. and J.D.), Moore clerked with Judge Malcolm Wilkey of the U.S. Court of Appeals and Supreme Court Justice Harry Blackmun, then practiced for two years with Jones, Day, Reavis & Pogue before she began teaching. Her scholarship has been primarily in taxation; in addition to tax courses she has taught Civil Procedure and a Supreme Court Seminar. In 1990-91 she is on leave from CWRU and teaching at Harvard as a visiting professor.



She has been a trustee of the Cleveland Bar Association, a trustee of Radcliffe College (Harvard University), and president of the Women's Faculty Association of CWRU. For the American Bar Association she served on a seven-member Standing Committee on Judicial Selection, Tenure, and Compensation. For the Association of American Law Schools she has chaired the Civil Procedure Section, the 1986 Workshop for New Law Teachers, and the Committee on Academic Freedom and Tenure; currently she is on the AALS Special Committee on Tenure and

the Tenuring Process. Since 1984 she has been a member of the American Law Institute.

## **Virginia S. Brown '81** *Distinguished Recent Graduate*

The 1990 Distinguished Recent Graduate Award was presented by Bob C. Griffo '81 to his classmate Virginia (Ginger) Brown. Established in 1984, the award is given to a graduate of no more than ten years who exceptionally fulfills one or more of four criteria: professional accomplishment, significant participation in professional activities, community service, involvement in law alumni affairs.

Brown entered law school after receiving the B.A. from Smith College. Since graduating she has practiced in Cleveland with Thompson, Hine & Flory; she was made partner a year ago. Her specialty is litigation, with concentration in construction claims, commercial litigation, and warranty defense.

She has been extraordinarily active in the professional community, notably as chair of the Young Lawyers' Section of the Cleveland Bar Association in 1988. A guardian ad litem for many years, she has chaired the Guardian Ad Litem Project Advisory Committee. She has also served on the Cystic Fibrosis Sports Challenge Committee and taken part in the CBA's Adopt-a-Class Program. For the law school she has been an Annual Fund volunteer and a member of the Alumni Association's Board of Governors.





# Public Interest Fellowship Honors Saul Biskind '31

The law school is pleased to announce the creation of the Saul S. Biskind Public Interest Law Fellowship, named in honor of a now-deceased 1931 graduate, a real estate developer who was committed to social change through the legal process. The fellowship has been made possible by two of Biskind's children: Edward Biskind, a Chicago-based financial asset manager, and Eve Biskind Klothen, director of Philadelphia Volunteers for the Indigent.

A commitment of \$400,000 over the next ten years will establish a Biskind Fellowship Endowment Fund and will provide a \$20,000 stipend each year to a third-year student who demonstrates a commitment to public interest law and, upon graduating, accepts a position in that field at little or no pay. The work must be with a nongovernmental organization that uses legal advocacy to promote social change for the poor or for those whose civil or human rights have been denied in some way. It can also be an organization devoted to protection of the environment.

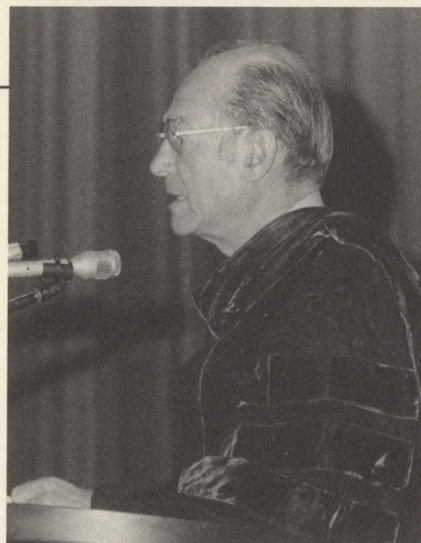
Dean Peter Gerhart commented: "I hope that the Biskind Fellowship becomes the cornerstone of an expansive and comprehensive program to support public interest law. The program actually had its origin several years ago when our students organized the Student Public Interest Law Fellowship to raise funds to support summer employment in public interest law. The Biskind post-J.D. fellowship is a logical and important extension of the same idea. The gift from Ed

Biskind and Eve Biskind Klothen not only honors a wonderful man, but spurs us to do even more to support our students."

The first student to be awarded a Biskind Fellowship is Kevin W. Meisner, who graduated last May and now is in-house counsel for the Paucatuck Eastern Pequot Indians in Connecticut. Meisner is working to gain federal recognition of the tribe; we hope to have a report from him in a future issue of *In Brief* when the Bureau of Indian Affairs has taken action on the tribe's petition for acknowledgement.

Eve Biskind Klothen presented the award at the 1990 law school commencement ceremonies. Her father, she said then, "viewed public interest attorneys as the noblest of our profession" and "rejoiced in class action suits which forced government and corporations alike to be more responsive to the needs of society." He believed that "law can and should be used as a vehicle for economic justice and social accountability."

Dean Gerhart has specific plans for building on the Biskind cornerstone: "We should be recruiting outstanding students whose goal is a career in public interest law; we should support their work in the summers and provide relevant clinical experiences. Although we have added a Poverty Law course, we need to think of other ways to enrich our curriculum for students who will go into public interest law. We need in-



*Saul Biskind '31 at the law school's commencement exercises in 1981, delivering greetings to the new graduates from the 50-year class.*

creased support for SPILF—the Student Public Interest Law Fellowship—and we need to fund a loan forgiveness program. More of our graduates would go into public interest law if we could defer or repay their student loans.

"These initiatives are important because they reinforce the notion of service that is such an important part of our professional lives. They will enrich the lives of our students and those whose lives are touched by our students. They will allow us to recruit, train, and send into the profession people who can make a real difference in improving access to justice for all citizens."

## Barbara White Joins Development Staff

Barbara S. White came to the law school in mid-November as our new development officer, replacing Robin Meinzer (who left to begin full-time law study at Cleveland-Marshall). She will work with director of development Scott Lange, department assistant Jean Fell, and the office secretary, Tracy Robinson.

White brings ten years of experience in fund raising. Most recently she was director of development of the Cleveland Opera, and before that she held the same title at the Garden Center of Greater Cleveland. She has also served

on the development staff of Cleveland's Arthritis Foundation.

A New Yorker, White holds the B.S. degree (in education) from Boston University. Before settling into a career in development, she spent some time as a professional dancer and worked in investments and publishing. She has been a Cleveland resident since 1971. She is married to a cardiologist, and together they have a "blended family" of five children, ages thirteen to twenty-six.





# CWRU Hosts Minority Job Fair

The fourth annual Midwest Minority Recruitment Conference, held in October, was bigger and better than ever. It brought together in Cleveland nearly 300 minority law students, drawn from 38 midwestern law schools, and representatives of 78 legal employers—law firms, corporations, government and public interest agencies. The employers came from California, Texas, New York, and Washington, as well as from the Midwest's major cities.

Student participation has more than doubled since the first conference was held in 1987 and organized almost single-handedly by Stephanie Mitchell '88, then a third-year student. Since then the Office of Career Planning has taken over the primary administration, though the Black Law Students Association continues to be co-sponsor. Anne Hurst '91 and Kirk Perry '92 were the student co-chairs this year.

The annual MMRC is one of several regional job fairs whose aim is to bring together students and employers who might not meet during the on-campus recruitment. In any midwestern law school minority students are a small fraction of the student body. A regional job fair makes it possible for employers to meet with a number and a variety of minority candidates.

And meet they did. The final tally was more than 1,500 interviews, an increase from the year before of nearly 50 percent. Furthermore, each employer took home a notebook containing the résumés of all participating students; they could make contact in the succeeding weeks with students they had not been



One of the 1,500+ interviews that took place at the 1990 Midwest Minority Recruitment Conference. The interviewer is Roberta Yang, an attorney with San Francisco's Heller, Ehrman, White & McAuliffe. Photo by Christine Valada '92.

able to interview during the two days of the conference. And many employers agreed to circulate the notebooks among other legal employers in their own communities, multiplying the possibilities for employment matches through minority roundtable programs.

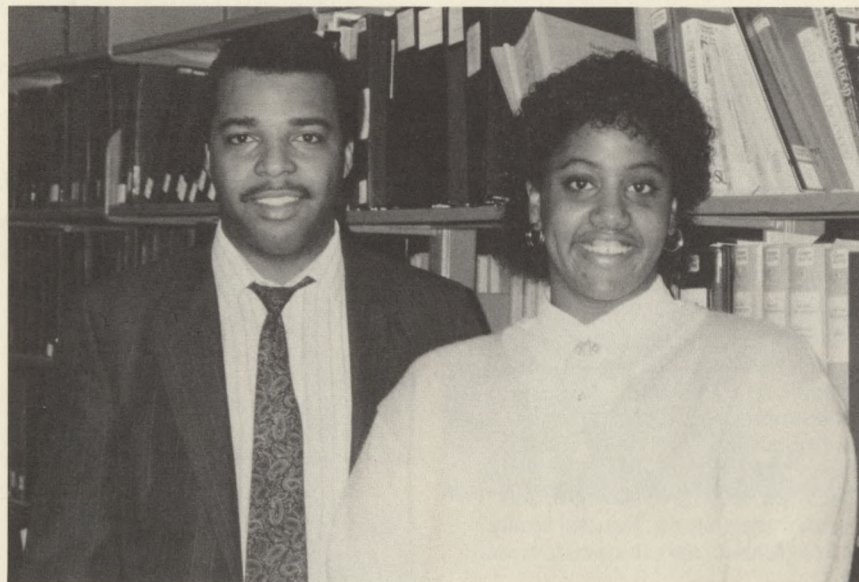
Associate Dean JoAnne Jackson, who has coordinated conferences III and IV, encourages the participating employers to think carefully about the credentials they expect from minority candidates. "I recommend that employers consider a wide variety of indications of real promise as a lawyer, rather than relying solely upon grades or class ranking. Grades are certainly important, but employers should also encourage candi-

dates who have a strong record of achievement and experience in other respects."

Every year the conference produces results. Employers who took part in 1989 were asked for follow-up reports and 42 percent responded. Of these, 70 percent offered second interviews to students they had met at the conference, and nearly 50 percent made at least one offer of employment. This year more than half the employers were repeaters, participating for the second, third, or even fourth time.

Dean Jackson hopes to keep the MMRC in Cleveland and to raise funds for a full-time executive director. "The conference is important to CWRU," she says, "not only because it produces jobs for our own minority students, but because it gives us a leadership role in promoting minority access to the profession."

Planning is already under way for the 1991 conference. Please urge your law firm (or corporation, or government office) to participate. Information about your organization and its commitment to the support of minorities in the profession will reach all 44 midwestern law schools, which together enroll nearly 17 percent of the minority J.D. candidates in the country. To be sure that you are on the mailing list for the 1991 conference, write or call Barbara Curley in the Office of Career Planning, 216/368-6353.



Co-chairs of the MRC: Kirk Perry '92 and Anne Hurst '91.



# Calling All Alumni: Career Planning Office Needs Your Help

by *JoAnne Urban Jackson*  
*Associate Dean for Student and  
Administrative Affairs*

By this time it's old news that the nation's largest corporate law firms have been hit by an economic slowdown. Many of them are cutting back on the hiring of new law school graduates and, foreseeing fewer permanent slots, likewise cutting back on their summer associate programs.

We have already felt the impact on campus interviews. More than ten employers cancelled plans to interview on campus, and a number of others interviewed only second-year students. With fewer job openings in the private practice, third-year students are looking elsewhere and meeting stiff competition. For example, the Justice Department's Honors Program has seen a 40-percent increase in applications this year.

When the big (100+) firms cut back, our law school feels the impact more than most because in recent years we have done so well in large-firm placement. Of our 1989 graduates, 28 percent of those replying to our employment survey are in large firms, compared with 19 percent of reporting 1989 graduates nationwide.

All of this is why, now more than ever, we need your help.

This spring, more of our second- and third-year students will be writing letters and making calls in search of employment opportunities. A key resource will be their network of CWRU law alumni, especially the more than 600 graduates, all over the country, who have volunteered to be career counselors. We are fortunate in having such a strong alumni network, but it needs to be even stronger. If you have not yet volunteered, please use the card on the last page of this magazine to join the network and make your knowledge and experience available to our students.

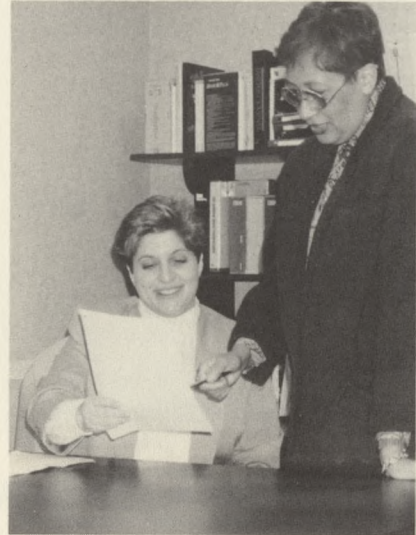
Incidentally, we do our best to assure that students use the alumni network responsibly and observe all the courtesies. We make the 1989 Alumni Directory available, but with it we distribute our Job Search Strategies Bulletin advising students how to initiate contacts with graduates and care for the relationship. (Some excerpts are printed on the next page, and we welcome your advice about additional suggestions.) We are encouraging students to use the network, and I hope we can count on all our graduates to be generous with their assistance during this period of rapid change in the legal profession.

Personal contacts between alumni and students are the most important part of the process, but there are other ways you can help. And we hope you will.

**1. Tell us about job openings.** When you learn of available positions, in your own organization or elsewhere in your community, please let us know. So many positions are filled informally and never advertised. We can help students apply, but only if we know where the jobs are! You can call Debra Fink, director of career planning, or Barbara Curley, our program coordinator, at 216/368-6353. We post more than 1,000 openings every year, and we send out a monthly Placement Newsletter from November through July.

**2. Send us directories and newspapers.** Let us know if your local bar association publishes a directory that might be a useful source of information about employers. If you can send along an extra copy, we'll make sure it's available to students job-searching in your community. The same is true for local legal newspapers. Our library has subscriptions to a few of the major metropolitan legal newspapers—some of them much-appreciated gifts from our graduates.

**3. Share specialized lists with us.** Consider whether you can give us a copy of specialized lists of legal employers or individual attorneys that may come your way. For example, a



*Debra Fink, director of career planning, at her desk. With her is Barbara Curley, office coordinator.*

group of law schools, including ours, recently put together a list of patent law firms; it's now a valuable resource for students looking in that area. Perhaps you belong to a specialized bar association or trade association and can share a directory with us.

**4. Take part in a workshop.** Let us know if you are willing to help with a workshop and talk with students about your work. The Career Planning Office sponsors six to eight workshops each semester, usually with a panel of three or four attorneys, on a wide range of employment areas. We particularly welcome participation by lawyers who are using their training outside of practice—in business, management, consulting, and other areas. Please call us at 216/368-6353.

During these next few difficult years a strong alumni career network will be our most important resource. We hope all graduates of the law school will get involved. Networking provides benefits for both advisers and advisees. This is our opportunity to broaden the career objectives of our very talented students and to forge even stronger alumni bonds for the future.



# Using the Alumni Network:

## Advice We Give to Students

While the Career Planning Office encourages students to make contact with alumni, we also advise them to be courteous, considerate, and responsible. Here are some excerpts from the sheet we distribute with the Alumni Directory. We would welcome your additional suggestions.

**1. Do some homework before you call or write.** Before you contact anyone by letter or telephone, take some time to decide what you are asking that person to do for you. Listing your points on paper will keep you focused during a telephone conversation.

**2. Be sure your expectations are reasonable.** If the advice you get

does not seem quite pertinent to your situation, you may wish to assess whether you described yourself accurately and in clear terms.

**3. Treat alumni relationships with care.** Failure to adhere to the standards of etiquette may well damage your chances and close the door to subsequent students. This is the perfect place to practice the Golden Rule.

**4. Say "thank you" and follow through.** Write a short thank you note immediately, and write (or call) again about two to three weeks later with information about the results of your subsequent efforts.

**5. Keep your alumni contacts informed.** When you decline an interview or offer related to a graduate's efforts on your behalf, or accept any position at all, let that alum know immediately. It is also an excellent idea to keep in touch periodically. The best sort of networking is done before you need it.

**6. Keep the Career Planning Office informed.** Please let the CPO know about the graduates you have contacted and the help they were able to give you so that future students can benefit.

## Canada/U.S. Law Conference

The Canada/U.S. Law Institute has scheduled its annual spring conference for April 12-14. The topic for 1991 is The Law and Economics of Disputes Resolution in the Canada/U.S. Context. The institute's U.S. director, Professor Henry T. King, Jr., will chair the conference; other CWRU participants are Professor Sidney I. Picker, Jr., who will open the conference; Dean Peter Gerhart, who will preside over the Friday luncheon session; and Professor Wilbur C. Leatherberry, the Friday evening moderator.

The following list of topics and speakers is virtually complete, but for absolutely up-to-date information you may telephone Professor King or the institute coordinator, Adele Gandal, at 216/368-2083.

### Friday, April 12, 1991

*The current context: where do we stand, internationally and domestically?*

Gerald Aksen—Reid & Priest, New York.  
Yves Fortier—Canadian Ambassador to the United Nations.

*Crossborder litigation involving Canada and U.S. litigants*

Bruno Ristau—Kaplan, Russin & Vecchi, Washington, D.C.  
T. Bradbrooke Smith—Stikeman Elliott, Ottawa.

*The comparative context for disputes resolution in Europe as compared with U.S./Canada*

Hans Smit—Director of the Parker School of Law and Diplomacy, Columbia University, New York.

*Comparative aspects of disputes resolution in particular subject areas*

### Technology

Larry Evans—BP America, Cleveland.  
Clive Allen—Northern Telecom, Toronto.

### Labor

Eugene Connors—Reed, Smith, Shaw & McClay, Pittsburgh.  
Donald Brown—Blake Cassels & Grayden, Toronto.

### Product liability

Malcolm Wheeler—Skadden, Arps, Slate, Meagher & Flom, Los Angeles.  
Bruce Thomas—Cassels, Brock & Blackwell, Toronto.

*The role of litigation and alternatives thereto in consumer activism.*

Alan Morrison—Public Citizen Litigation Group, Washington, D.C.  
Andrew J. Roman—Miller Thompson, Toronto.

### Saturday, April 13, 1991

*Disputes resolution between governments: the Canada/U.S. free trade agreement in operation*

M. Jean Anderson—Weil Gotshal & Manges, Washington, D.C.  
Jonathan Fried—Canadian Embassy, Washington, D.C.

*Disputes resolution between governments: the Canada/U.S. environmental context*

Richard J. Smith—Deputy Assistant Secretary of State, Washington, D.C.

Michael Phillips—Assistant Deputy Minister, U.S. General Relations Branch, Department of External Affairs, Ottawa.

*The comparative context for disputes resolution in Japan as compared with Canada/U.S.*

John Haley—Professor of Law, University of Washington, Seattle.

*The comparative economic and other related aspects (e.g., timing) of arbitration litigation and other means of disputes resolution in Canada and the U.S.*

Clifford L. Whitehill—Senior Vice President and General Counsel, General Mills, Inc., Minneapolis.

Katharine Braid—Vice President, Legal Services, Canadian Pacific, Toronto.

*The enforcement of agreements to arbitrate and arbitral awards in Canada and the U.S., both domestic and international*

James H. Carter—Sullivan & Cromwell, New York.

Jean-Gabriel Castel—Osgoode Hall Law School, York University, Toronto.

*What can we do to make the current system of disputes resolution work better?*

Robert Coulson—President, American Arbitration Association, New York.

John Sopinka—Justice of the Supreme Court of Canada, Ottawa.

### Sunday, April 14, 1991

*The future: implementing new approaches to the settlement of disputes*

George W. Coombe, Jr.—Graham & James, San Francisco (former Executive Vice President and General Counsel, Bank of America)



# CWRU + MDC = A Grand Success

by Kathleen M. Carrick  
Associate Professor  
Director of the Law Library

The numbers are impressive. In October, 1989, the CWRU law school and Mead Data Central together launched a test project providing free home access for the school's faculty and students to MDC's full-text legal databases LEXIS and NEXIS. Over the remaining 7 months of the academic year, CWRU's usage hours increased by 95 percent and costs decreased by 13 percent. And numbers don't tell the whole story. Qualitatively as well, the CWRU/MDC partnership has had a dramatic impact on the school's curricular and co-curricular programs.

Mead Data Central supplied ID numbers and LEXIS/NEXIS software to each student and teacher in the test groups—the Law School Clinic, the scholarly journals, Moot Court, and selected classes and seminars. MDC also supplied several terminals as well as a stand-alone printer, two leased lines, and a multiplexer to allow multiple users access through CWRUnet, the network created by the university's ambitious fiber-optic cabling project. The law school's contribution was in-house instruction, supervision, and evaluation.

MDC was interested in studying the practical application of computer-assisted legal research (hereafter, CALR) in substantive case law courses. Although CALR has been important to practitioners since the mid-70s, law schools have been more cautious in approaching the new technology. The CWRU/MDC venture was aimed at examining wider applications of CALR in legal education.

It was particularly important to us to integrate the MDC databases into our substantive courses and seminars. Many students see computer research as a bugbear. Others expect it to be a panacea but fail to integrate it appropriately with traditional research methods. Our goal was to correct those misperceptions and train students to use the computer and use it well.

As reports came back from the various participating groups, we knew we had succeeded.

## The Law School Clinic

The Clinic, our in-house law office in which third-year students learn the ropes of real-life legal representation, was a natural participant in the first phase of the test project.

The Clinic began by installing a new P/S2 and adding modems to two computers already available to students. Every Clinic student received an individual password and took a training session consisting of refresher exercises and introductions to the specialized libraries available through NEXIS. By the second semester, when students had gained proficiency and case loads were at their peak, we saw really heavy use of the LEXIS database.

Professor Peter Joy '77, director of the Clinic, reported that computer research was especially helpful to students preparing motions dealing with special legal and factual issues. He also noted that the integration program helped students to understand and appreciate the interdependence of lawyering and law libraries: "Students in the Clinic began to view the library in a support role similar to what they will experience in a firm." Finally, he observed that the students came to feel that "they were part of a law firm that never sleeps; many students used their passwords during the evening and early morning hours to get a jump on their overall workload—it made them more productive in all their work for the Clinic."

## The Journals

The greatest increase in on-line usage last year occurred with the *Law Review*, the *Journal of International Law*, and *Health Matrix*. Together they used at least 478 hours of LEXIS time and 163 hours of NEXIS for a total of 4,587 searches.

There were interesting differences. While both *LR* and *JIL* used about 300 database hours, 42 percent of *JIL*'s use was concentrated on NEXIS; the NEXIS files and international wire services gave the editors current information, allowing them to keep abreast of international affairs and to search for interesting issues that might be note topics. The *JIL* students were among the most enthusiastic participants in the test program.

## Seminars

The most exciting aspect of the CWRU/MDC project, and the most revolutionary pedagogically, was the actual integration of CALR into the curriculum. Our students are required to take at least one course that entails a substantial research paper. These projects can provide excellent training in CALR and exposure to specialized databases. The process of compiling information and composing a paper improves data retrieval and analytical research skills and exposes students to challenges and experiences not offered by ordinary classroom work.

Last year six classes were involved in the program: Paul Giannelli's Scientific Evidence, Visiting Professor Howard Friedman's White Collar Crimes, Ronald Coffey's Securities Regulation, Advanced Legal Information Systems (taught by the law librarians), and Sales and Insurance, both taught by Wilbur Leatherberry.

Although LEXIS was most used, students in Sales, White Collar Crimes, and Legal Information Systems used NEXIS heavily. The White Collar Crimes class also accessed federal and state codes frequently, tracking trends in this developing area of the law.

Leatherberry has said that in the future he would like to refine the database training to concentrate on specific examples. "Specialized areas of law, like sales, have unique issues that the students can identify and research by using the on-line services. But you need specific examples pertaining to the special issues for the students to appreciate the benefit of CALR to a particular area of the law."

After the success of the first year, we have continued the integration of CALR in the advanced curriculum. Kevin McMunigal's seminar, Ethics and the Adversary System, has added a CALR component, and Rebecca Dresser is planning to introduce applications in Law and the New Reproductive Technology. In the spring semester Jennifer Russell's seminar in Poverty Law will benefit from our expanded legal research offerings. Students in Sidney Picker's Contemporary International Legal Problems are learning that CALR



can provide up-to-date international legal information that is otherwise unobtainable, and editors of *JIL* now make equal use of manual and automated research.

Both LEXIS and WESTLAW have provided the law school with leased lines connecting to our local network, and they have given every student a unique password for use at school or at home. Programs and applications that were impossible a few months ago are now available and practical.

The Mead program is only a single element in our continuous examination of developing technology and information systems. Recently the law library received an Award of Merit for its outstanding use of the Dialog database; the award recognizes libraries and schools that integrate the on-line database with scholastic projects. Our grant of \$1,000 of on-line search time will be spent exploring further applications, especially in our Advanced Legal Research course.

All of this, we think, is exciting news for legal education and the research it demands. For more than a decade law schools have watched the development of legal databases with a certain skepticism. Computerized databases were appealing, but they represented a prohibitive financial strain on most institutions and a drain on the time and energy of library staff. The additional resources provided by Mead Data Central and West Publishing Company have changed the situation dramatically.

There are still many barriers, including extensive training of faculty and staff. But perhaps the biggest problem is still the law schools' hesitation about venturing into uncharted waters. The application of CALR and other forms of modern technology is the most significant development in legal education since Langdell. We are now able to expand the pedagogical structure created a century ago to provide students with the knowledge and skills that they will need in the century ahead.

Professor Ron Coffey states the need in practical terms: "In securities and corporate law, it is the associate who gets the latest information who closes the deal. It is imperative that our students know and appreciate the applications that these databases can provide.

Law schools have been behind the practicing bar in integrating technology with the study and practice of law. The new programs that MDC and West are making widely available give legal educators a second chance to provide leadership in the application of technology to legal analysis. Our first year-and-a-half has shown us that the uncharted waters are friendly, and exploration is necessary, practical, and exciting.

## Computer Room Gets a Name

The library's Room 330 is now the Carl D. Glickman Computer Center, named for a long-time friend of the law school. In 1982 Glickman established an endowment fund to be used at the dean's discretion to strengthen the school through investments in educational and research facilities. He has added to the fund since then, and recently asked that \$100,000 of the principal be allocated to some significant purpose. The decision was to buy new equipment for the law library and the Hostetler Moot Courtroom.

Although the law school early invested in top-of-the-line hardware, the installation of fiber-optic cabling and the introduction of the CWRU net system made it evident that what was once state-of-the-art video and computer equipment was now conspicuously inadequate for the new modes of information exchange. The Glickman resources have allowed the school to bring its facilities and equipment up to date. We have invested nearly \$100,000 in audio, video, and computer equipment so as to take better advantage of the data transmission that CWRU net offers. Data, voice, and video images can be transmitted over the network, and law students will now have the technology and the training to learn how to access and manage an array of information.

The computer training room has been revamped so that as many as sixteen people can work on the system simultaneously while assisted and monitored by an instructor. The new configuration allows the law librarians to provide special individualized instruction in computer-assisted legal research to journal editors, advanced seminars, and specialized programs. The Moot Courtroom's audio-visual recording facilities have been significantly upgraded, with a change from Beta to VHS format that allows us to receive and broadcast satellite programming—particularly helpful for CLE and trial advocacy programs.

All this we owe to a donor who is not a graduate of the law school. His partner was, however—Myron D. Malitz '60. When Myron Malitz died in 1978, Carl Glickman was instrumental in setting up a scholarship fund bearing the Malitz name. And he continued his own close association with the law school, serving on the school's Visiting Committee from 1979 to 1987.

Glickman is a former partner and present director of the investment firm of Bear Stearns & Company. Other real estate and investment companies of which he is a director include the Franklin Corporation, LGT Industries, the Real Property Corporation, the Andal Corpo-



ration, Blue Coral Inc., Continental Health Affiliates, Curtis Industries, the National Cleaning Group, and the Jerusalem Economic Corporation.

A native Clevelander, Glickman has been extraordinarily active in civic affairs. He has been a member of the Cleveland Bar Association's Grievance Committee and a trustee of the Greater Cleveland Growth Association and of Mt. Sinai Hospital; he has served on the Mayor's Committee on Urban Renewal and on the Task Force on Higher Education (1965-67). He was foreman of the Cuyahoga County Grand Jury in 1984-85 and until recently a director of the Cleveland Port Authority.

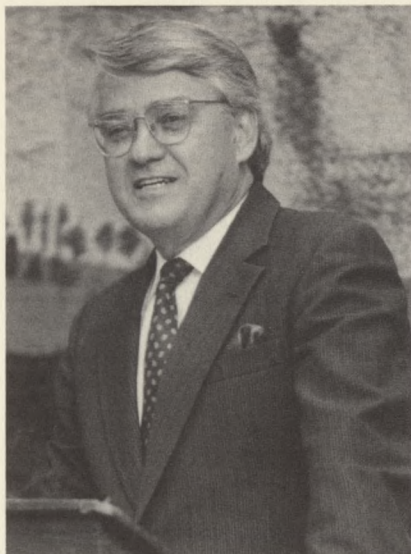


# Visitors to the Law School

A number of notables visited the law school during the fall semester, enriching our ever-simmering intellectual broth. Two were part of an endowed lecture series: the Sumner Canary Memorial Lectureship brought us Judge Patrick Higginbotham of the U.S. Court of Appeals, Fifth Circuit, and the Norman A. Sugarman Tax Lectureship brought us Judge Herbert L. Chabot of the U.S. Tax Court.

Judge Higginbotham, who holds both B.A. and LL.B. from the University of Alabama, has been on all the recent short lists of possible appointees to the U.S. Supreme Court. Gerald Ford named him to the U.S. District Court in 1975, and Ronald Reagan promoted him to the Court of Appeals in 1982. He is on the adjunct law faculty of Southern Methodist University and chairs the Appellate Judges Conference of the Judicial Administration Division. The topic of his lecture on October 24 was "Juries and the Death Penalty." Earlier in the day he met informally with students and faculty and taught James McElhaney's trial advocacy class.

Judge Chabot delivered his formal lecture downtown to the Cleveland Tax Institute but spent most of his days in Cleveland at the law school. He spoke to the Academy, taught two Federal Income Tax classes, and carried on informal conversations in between. A graduate of the College the City of New



*Judge Patrick Higginbotham, Sumner Canary Lecturer.*

York, he earned the LL.B. degree from Columbia and the LL.M. in taxation from Georgetown. His employment history includes a clerkship with the Tax Court, 1961-65, and work for the American Jewish Congress and the Joint Committee on Internal Revenue Taxation of the U.S. Congress.

In the November week of the Sugarman Lecture, our simmering pot came close to boiling over. We also had with us the chief counsel of the Internal Revenue Service, Abraham N. M. Shashy, Jr., and the clerk of the U.S. Supreme Court, Joseph F. Spaniol '51. Not to mention Elizabeth Rindskopf, general counsel of the Central Intelligence Agency; Avery S. Friedman, nationally known housing attorney; William N. West '67, president and CEO of the Ostendorf real estate company; and Carolyn Friedland, judge of the Cuyahoga County Court of Common Pleas. The three very recent graduates who offered a Career Planning workshop on Nontraditional Career Paths and shared the billing on the weekly calendar must have felt that they were in pretty high society. They were Susan Austin-Carney '88, supervisor of acquisitions for Banks-Baldwin Law Publishing Company; John M. Nolan '87, program coordinator for the AIDS Commission of Greater Cleveland; and Kimm A. Walton '84, president and founder of Law-in-a-Flash.

And that was not all. In the same week, under *Law Review* sponsorship, we hosted a symposium—The Right to Privacy One Hundred Years Later—celebrating the centennial of the Warren and Brandeis article. Four academic stars of the constitutional law arena presented papers: Robert C. Post, University of California, Berkeley; David H. Flaherty, University of Western Ontario; Frederick Schauer, Harvard University; and David W. Leebron, Columbia University.

Other invited participants were Randall P. Bezanson, Washington and Lee University; Gary T. Schwartz, University of California, Los Angeles; Ronald A. Cass, Boston University; Anita L. Allen, Georgetown University; Erwin Chemerinsky, University of Southern California; Susan M. Gilles, Capital University; Paul A. LeBel, College of William and Mary; Diane L. Zimmerman, New York University; and CWRU faculty Jonathan L. Entin and Michael Grossberg.



*Joseph F. Spaniol '51, Clerk of the U.S. Supreme Court.*

For a complete list of visiting speakers, see the 1991 Annual Report. We are reserving several pages for it.



*Judge Herbert L. Chabot, Norman A. Sugarman Tax Lecturer.*



# Faculty Notes

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Three pieces forthcoming by **Arthur D. Austin II**: "An Allegory on the Banks of the Nile" in the *Kansas Law Review*, "Litigator: Beware of the Hidden Camera!" in the *Maryland Bar Journal*, and a book review in the *Arkansas Law Review*, "Barbarians at the Gate, The Fall of RJR Nabisco." The *Cleveland Plain Dealer* published his op-ed article, "Borkchop Strategy Locks Court," on October 5, 1990. Austin will address the National Conference of Law Reviews in Detroit in April on the subject of The New Legal Scholarship; he spoke to the conference once before, in 1989.

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**Kathleen M. Carrick** has been appointed to a three-year term on the Library Committee of the Association of American Law Schools and is serving on the ABA/AALS accreditation inspection committee for the Brooklyn Law School. She was on the LEXIS Graylyn Advisory Council for a conference, "Legal Research: Preserving an Essential Lawyering Skill," held in November in Winston-Salem, North Carolina; participants were judges, law teachers, librarians, and law firm managers.

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The *University of Pittsburgh Law Review* has published an article by **Laura B. Chisolm**, "Sinking the Think Tanks Upstream: The Use and Misuse of Tax-Exempt Organizations by Politicians." In October Chisolm was an invited speaker at a conference (Charitable Solicitation: Is There a Problem?) sponsored by the Program on Philanthropy and the Law of New York University. Last August she was in White Plains, New York, giving a two-day course on the law of tax-exempt organizations for the Girl Scouts of the U.S.A.—part of a two-week certificate program for which GSUSA has contracted with CWRU's Mandel Center for Nonprofit Organizations. Executive directors of local Girl Scouts came from all over the country for the program, which will be repeated in March for more executive directors and in June for GSUSA's in-house management specialists.

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The law school's 1990-91 series of faculty workshops began with a presentation by **George W. Dent, Jr.**: "Shareholder Liability for Corporate Obligations in Environmental Law." Dent also gave a CLE talk in Cleveland on corporate governance.

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In November **Jonathan L. Entin** took part in the law school's Warren/Brandeis centennial symposium, The Right to Privacy One Hundred Years Later; he discussed the presentation by Professor Robert Post. He has been frequently interviewed by the media during the weeks of furor over offensiveness and the arts, commenting on the Mapplethorpe/NEA controversy and the various legal campaigns against 2 Live Crew. For CWRU law students, he moderated the annual panel discussion on judicial clerkships in October, and for prospective law students he taught a demonstration class at the annual Minority Pre-Law Conference sponsored by the Black Law Students Association.

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**Peter M. Gerhart** headed a task force for the Citizens League Research Institute of Cleveland; it issued its report last July on "Strengthening Partnerships in Education." In September Gerhart became chair of the Legal Education Section of the Ohio State Bar Association and a director of the Cleveland Center for Economic Education. In October he delivered a paper, "Regulating Charitable Solicitation as a Form of Consumer Protection," at a conference at New York University sponsored by NYU's Program on Philanthropy and the Law.

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The *Public Historian* recently published an article by **Michael Grossberg**, "The Webster Brief: History as Advocacy, or Would You Sign It?" It analyzes the brief submitted in that case by four hundred historians. Another piece by Grossberg just appeared as part of a book, *Meanings for Manhood: Constructions of Masculinity in Victorian America*, edited by Mark Carnes and Clyde Griffen and published by the University of Chicago Press; Grossberg's contribution is "Institutionalizing Masculinity: The Law as a Masculine Profession." In October, Grossberg spoke to the Young Lawyers Section of the Cuyahoga County Bar Association on the subject of civil disobedience.

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**Erik M. Jensen** has an article forthcoming in the *American Indian Law Review*, "The Imaginary Connection between the Great Law of Peace and the United States Constitution: A Reply to Professor Schaaf"; it challenges, says Jensen, "the now common (and, I think, demonstrably preposterous) proposition

that the framers of the Constitution were heavily influenced by the governmental structure of the Iroquois Confederacy." Another article "will be picked up any day now by one of this nation's elite law reviews"—"The Unanswered Question in *Tufts*: What Was the Purchaser's Basis?" His 1990 supplement to Bruen, Taylor & Jensen, *Federal Income Taxation of Oil and Gas Investments* (2d edition) appeared in October. Jensen was one of the authors of the 1989 Current Developments report for the ABA Section of Taxation's Committee on Sales, Exchanges and Basis, published in the summer 1990 issue of *The Tax Lawyer*. Last July *Crain's Cleveland Business* published his op-ed piece, "Strings Attached to Support for the Arts Aren't an Evil." ("The title was theirs," says Jensen. "I don't think it quite catches my neo-fascist position, but it's close enough.") Finally, last November's Cleveland Tax Institute included a panel considering Purchase and Sale of a Corporate Business in a Taxable Transaction; Jensen spoke on Planning Issues in Asset Acquisitions.

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In the winter of 1990 **Lewis R. Katz** taught six CLE workshops throughout the state for the Ohio Judicial College; his subject was search and seizure, and over half of Ohio's sitting judges attended. During the year he published an article in the *Indiana Law Journal*, "In Search of a Fourth Amendment for the Twenty-first Century," and updates to the Schroeder-Katz *Ohio Criminal Law and Practice*, the Clancy-Katz *Ohio Criminal Justice*, and the Clancy-Katz *Ohio Crimes Digest* (all published by Banks-Baldwin). In March 1991 Matthew Bender will publish the *New York Suppression Manual* co-authored by Katz and Jay Shapiro '80, assistant bureau chief of the Kings County District Attorney's Office. The third edition of Katz's *Ohio Arrest, Search and Seizure* is expected from Banks-Baldwin this summer.

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**Gerald Korngold** has been named to the Current Decisions and Legislation Subcommittee of the ABA Real Property Section's Committee on Easements, Covenants, and Restrictions. His latest article, "Resolving the Flaws of Residential Servitudes and Owners' Associations: For Reformation Not Termination," has just been published by the *Wisconsin Law Review*.

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Last summer **Kenneth R. Margolis** wrote an essay exploring the various roles played by lawyers in the representation of clients. Titled "Chameleons in Pinstripes: A Law Student Guide to Practitioner Behavior," it divides lawyer tasks into ten broad categories (salesperson, legal researcher, negotiator . . .), explores the basic goals of each role, and discusses ways of achieving them. Clinic instructors are using the essay as a teaching tool and, after some revision, Margolis expects to offer it for publication.

**William P. Marshall** has been spreading the name and reputation of the law school in a variety of ways. He spoke to the Cleveland Bar Association on the subject of the arts and the First Amendment, and he spoke on religion at the Capital, Hamline, and DePaul law schools. He played guitar one night in October at Muldoon's Bar in Chicago.

The Section on Legal Writing, Reasoning, and Research of the Association of American Law Schools has named

**Kathryn S. Mercer** to its nominating committee. In November Mercer presented a six-hour workshop on Reducing the Risk of Professional Liability in Child Welfare to social workers and social work supervisors working with the Children's Services Bureau or the Department of Human Services in five Ohio counties.

The U.S. government has appointed **Sidney I. Picker** to the 15-person panel of U.S. arbitrators who, along with Canadian counterparts, resolve country-to-country disputes under the Canada/U.S. Free Trade Agreement; for any given dispute five persons from the panel are selected as arbitrators. As chair of the Canadian-American Section of the Association of American Law Schools, Picker has organized a panel presentation for the annual January AALS meeting in Washington on "The Canada/U.S. Free Trade Agreement after Two Years of Operation." Last May Picker served pro bono as international law counsel on a public interest case in the U.S. District Court in Seattle, *Agkun v. Boeing Services Corp.*, successfully arguing that

Title VII of the 1965 Civil Rights Act applies extraterritorially; he is currently arguing the same point as pro bono co-counsel for the American Civil Liberties Union and others in an amicus curiae brief to the U.S. Supreme Court in the case of *Boureslan v. Aramco*.

Picker continues as a member of the League of Ohio Law Schools Advisory Committee to the Ohio Supreme Court. He recently surveyed the foreign-educated bar admission requirements of all the states and presented a Report, Analysis, and Recommendations to the League and to the court on criteria for determining educational equivalence of foreign-educated bar applicants.

In addition, Picker has been on the speaking circuit. He was the featured speaker at a December gathering of the CWRU alumni chapter in Orange County, California (as he was last May for the university's alumni in Chicago). In September he teamed with former faculty member Eric Zagrans for a talk at the law school on the Iraqi invasion of Kuwait and the resultant Mideast crisis.

## The C. B. King Legacy — Addendum

In the last issue of *In Brief* "Focus on Albany, Georgia" detailed the career of civil rights attorney C. B. King '52 and some of his professional legacy—young black people from Albany who, following his example, studied law at Case Western Reserve and went on to make their own significant contribution as attorneys.

A family snapshot sent by Mrs. King (along with her gracious comments on the article) shows C. B. King's other legacy. Carol King's letter provides the caption: "Top row (left to right) Daisy King, Chevene Jr.'s wife; Chevene Jr.; Peggy King, a graduate of Bennington College and Columbia University School of Architecture. She is employed as the architect for the mayor of New York City. Next is Leland, who is in architecture as well. He went to Boston University and Florida A. & M. School of Architecture. He is employed with a models firm of John Portman in Atlanta. Next is Kenyon, the second son, whose degree is in business administration from Albany State College. Leland is the third son. Peggy is fourth in line.



"Beside me is Clennon Leslie, a Tulane graduate in communications. After a year of law at the University of London, he opted to pursue television. He is married, has one son, a year old, and is the director of five closed-circuit TV

stations for the city of Atlanta. Earlier he served as special assistant to Mayor Andrew Young for three years. The smaller of the two children is Chevene III and last is Ian King, Kenyon's son."

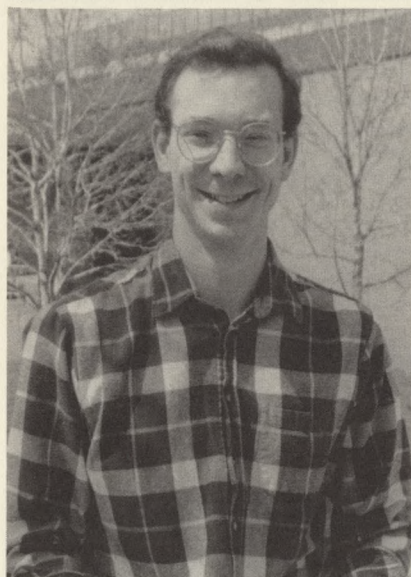


# Journals Name Editors

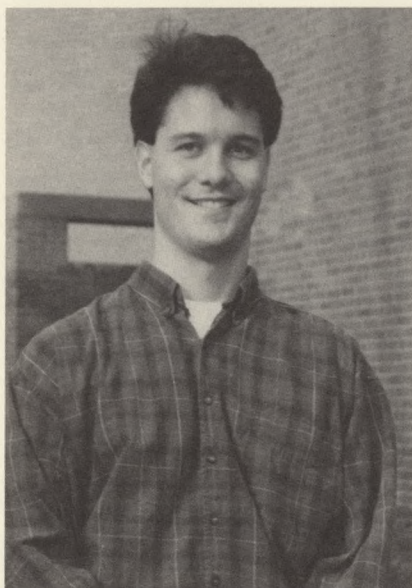
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Another year is well under way for the law school's three scholarly journals and their 1990-91 editorial boards.

The *Law Review* is headed by Neil Kinkopf, editor in chief; Todd Smith, managing editor; and Michele Brown, business manager. Kinkopf, who comes from Lakewood, Ohio, is a Phi Beta Kappa, summa cum laude graduate of



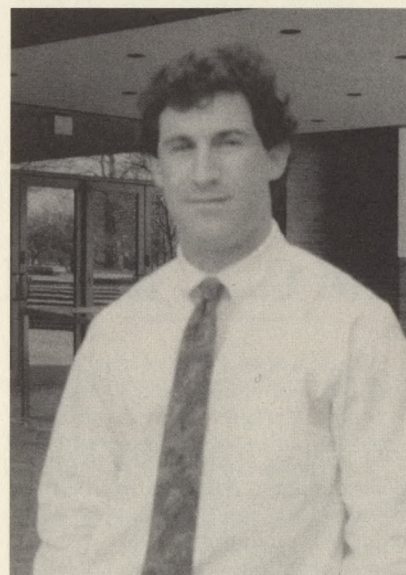
Boston College and holder of a CWRU Merit Scholarship. He spent the summer in New York with Paul, Weiss, Rifkind, Wharton & Garrison and next year will clerk for Judge Richard F. Suhrheinrich of the U.S. Court of Appeals, Sixth Circuit.



James J. Merriman, editor in chief of the *Journal of International Law*, is another with westside origins (Rocky River). A graduate of Northwestern University, he held a summer externship in Cleveland with Judge Ann Aldrich, U.S. District Court, and spent the past summer in Detroit with Plunkett, Cooney, Ruh, Watters, Stanczyk & Pederson.

Heading the *Health Matrix* board are Adam Gross, editor in chief, and Francine Stulac, managing editor. Gross, whose hometown is Wantagh, New York, majored in philosophy at Clark University and became particularly interested in medical ethics.

*Health Matrix* has undergone major changes this year. After seven years as an interdisciplinary publication sponsored by all six of CWRU's professional schools, it has been taken over by the law school and henceforth will be a student-edited health law journal under the aegis of the Law-Medicine Center. In fact it is the only such journal associated with a health law program. This year *Health Matrix* will publish two issues; in the future, it is to be a quarterly publication.





# Class Notes

by Beth Hlabse

## 1926

**Ralph Vince** has been selected as the recipient of the Distinguished Alumni Service Award of Washington and Jefferson College in Washington, Pennsylvania.

## 1934



**Willard C. Barry** has been appointed a member of the Rules Advisory Committee by the Ohio Supreme Court.

**George N. Kalkas** was the principal speaker at the One World Day Celebration marking its 50th year at the Italian Cultural Garden in Cleveland's Rockefeller Park.

## 1938

**Ivan L. Miller** has received yet another decoration from the French government: he is now Chevalier Dans L'Ordre National du Merite. The award recognizes his distinguished services in advancing the cause of French/American relations.

## 1941

The date is set for the 50-year class reunion: Saturday, September 21, 1991. The planning committee consists—so far—of Tony Klie, Manning Case, Ed Warren, Bob Horrigan, and Bob Eshelman. They would welcome additional volunteers.

## 1946

The date is set for the 45-year class reunion: Saturday, September 21, 1991. Stan Adelstein, Frank Talty, Rita Newman, and Doug Wick have

volunteered for the planning committee and would welcome additions to their number.

## 1948

**John V. Corrigan** was the recipient of the Cleveland Bar's Award of Merit.

**Charles R. Richey** was awarded the H. Carl Koultrie Award of Judicial Excellence by the U.S. District Court of Washington, D.C., and the Harold Hitz Burton Award by the Cleveland Club of Washington, D.C.

**Joseph P. Tulley** has been elected trustee of the Lake County Bar Association in Ohio.

## 1951

The date is set for the 40-year class reunion—Saturday, September 21, 1991—and Fred and Lois Weisman have offered their Moreland Hills home as the party site. Others who have offered to help are Jack Gherlein, Charlie Ault, Joe Spaniol, Bill Haase, Charlie Griesinger, Jack Stickney, Ken Thornton, Anne Landefeld, and Ted Jones. Let us know if you can help too.

**Richard G. Bell** has been named professor of law emeritus, Wake Forest University, North Carolina, after 25 years of active faculty service. He continues to write, consult, and practice limitedly in wills, decedents' estates, trusts, probate administration, and the Uniform Commercial Code.

**Edward I. Gold** has been promoted to the position of acting United States trustee for the Central District of California. He will be in charge of a staff of attorneys, accountants, and paraprofessionals in the administration of bankruptcy cases for the Department of Justice.

## 1953

**Lewis Einbund** was appointed to the board of directors of the Cleveland Academy of Trial Lawyers.

## 1954

**Theodore E. Chernak** has been named Small Business Veteran Advocate of the Year by the U.S. Small Business Administration.

## 1956

The date is set for the 35-year class reunion—Saturday, September 21, 1991—and a number of people have already volunteered their help: Bob Weber, Dan Roth, Jerry Ellerin, Bill Smith, Keith Spero, Howard Stern, Jack Marshall, and Marty Blake. Let us know if you would like to join them.

**Robert D. Archibald** made a presentation at a two-day medical conference—Current Trends: 1990—sponsored by St. Vincent Charity Hospital.

## 1957

**Joan E. Harley** was honored as one of the 50 outstanding graduates of the Communication Department at CWRU. She was in Budapest in August to exchange legal information with a Hungarian lawyer on the formation of the U.S. Constitution.

**Joseph G. Schneider** is the new president of the Cleveland Athletic Club.

## 1959

**Robert A. Blattner** has been elected vice president of the board of trustees of the Cleveland Play House.

## 1961

The date is set for the 30-year class reunion: Saturday, September 21, 1991. As of this writing (and volunteers are still welcome!) the planning committee consists of Tom Mason, Larry Bell, Harvey Adelstein, Don Robiner, and Tim Garry.

**Robert H. Jackson** has been elected a trustee of both the Cleveland Institute of Music and the Ohio Chamber Orchestra.

**John R. Werren** has become a member of Walsh College's Advisory Board.

## 1964

**Allen S. Spike** was elected to the Ohio State Bar Association's Executive Committee representing District 10.

## 1966

The date is set for the 25-year class reunion: Saturday, September 21, 1991. Phil Campanella, Leon Weiss, and John Lindamood are early volunteers for the planning committee. Others are needed! Let us hear from you.

**Paul Brickner** has written an article entitled "At the Crossroads: Education Reform or Revolution?" in *Baldwin's Ohio School Service* and a combined review of Sheldon M. Novick's life of Oliver Wendell Holmes and Robert A. Burt's speculative study of Louis D. Brandeis and Felix Frankfurter in the *New York Law School Law Review*.

## 1967

**Marshall J. Wolf** has been elected vice chairman of the Family Law Section of the American Bar Association.

## 1968

**John J. Bagnato** has been elected chairman of the Pennsylvania Bar Association Workers' Compensation Law Section.

## 1969

**James M. Klein** led a 24-member delegation on a tour of Britain, Germany, and the Soviet Union in August.

## 1970

**Thomas H. Barnard** spoke on the Americans with Disabilities Act before the Consumer and Personal Rights Committee of the American Bar Association's Litigation Section at the ABA annual meeting.



## 1971

The date is set for the 20-year class reunion: Saturday, September 21, 1991. Let us know if you can help to organize it. So far we have heard from volunteers Gerry Jackson, Herb Phipps, John Demer, John Wilbur, Willie Kohn, Chuck Riehl, Jerry Weiss, and Maynard Thomson—who with his wife Laura has offered to host the party at their home in Cleveland Heights.

**William M. Greene** was installed as vice president of the Cleveland Academy of Trial Lawyers.

**David C. Johnson** has been elected a fellow of the American College of Trust and Estate Counsel.

## 1973

**Gregory P. Szuter** is a contributor to the Ohio and Michigan chapters of "Employment Law in the 50 States, A Reference for Employers" published by the National Association of Manufacturers.

**Gerald R. Walker** was elected by the Lake County Bar Association the District 18 delegate to the Ohio Bar Association.

## 1974



**Marcia B. Marsh** was named winner of the Amory Houghton Award for Public Service, Dow Corning's highest award for public service.

**Harold H. Reader III** has been appointed vice chair of the Property Insurance Law Committee of the Tort and Insurance Practice Section of the American Bar Association.

## 1975

**George S. Coakley** has been appointed a trustee of the Cleveland Zoological Society.

## 1976

The date is set for the 15-year class reunion: Saturday, September 21, 1991. Pat Plotkin, who hosted the 10-year gathering, has volunteered a repeat but will not object if the planning committee comes up with another idea. Others on that committee are Vicki Morrison, Dixon Miller, Peggy Kennedy, Bruce Mandel, Joan Gross, and Karen Savransky. More helpers are needed! Please volunteer.

**Roger L. Shumaker** has been elected president of the Cleveland Estate Planning Council.

**Hazel M. Willacy** has been appointed to the board of trustees of the Greater Cleveland Hospital Association.

## 1978

**Douglas W. Charnas** sent us: "With three days' written notice, my former firm, Heron, Burchette, Ruckert & Rothwell folded on February 16, 1990. After a two-week stint as a sole practitioner, I joined Collier, Shannon & Scott to head its tax practice.

**Judith A. Lemke** has been named to the management committee of Benesch, Friedlander, Coplan & Aronoff in Cleveland.

**Holly Mitten** has joined Liebman, Reiner & McNeil in San Francisco and will be doing client development and defense of toxic exposure claims.

**Jan E. Murray** has been promoted to vice president at Southwest General Hospital in Cleveland.

## 1979

**Anne K. Stevens** has moved to Decatur, Georgia, to attend Columbia Theological Seminary, a Presbyterian seminary. She will be studying full-time in the Masters of Divinity program.

## 1980

**Rosemary A. Macedonio** has been elected to the board of directors of the Women Business Owners Association in Cleveland.

## 1981

The date is set for the 10-year class reunion—Saturday, September 21, 1991—and Susan and Joel Hyatt have offered to hold the party at their home. In addition to Susan, early volunteers for the planning committee are Bob Griffo, Dawn Starr and Paul Gutermann, Ginger Brown, Colleen Conway Cooney, Peter Koenig, Laura Chisolm, Alec Andrews, and Ted Prasse. More helpers are needed!

**Susan Papanek McHugh** sent us: "I wrote one of the main chapters in a book on the Massachusetts consumer protection statute and gave a talk on the issue to Massachusetts judges for the Flaschner Judicial Institute in November."

From **Arlene B. Richman** we received: "I joined Western Development Corporation in Washington, D.C., in September. W.D.C. is the developer of two million square foot value retail/entertainment malls in the U.S."

**Musette T. Vincent** has been promoted to vice president of the law department of National City Bank in Cleveland.

## 1982

**D. Benjamin Beard** was published in the *Tennessee Law Review*: "The Purchase Money Security Interest in Inventory: If It Does Not Float, It Must Be Dead."

**Richard L. Demsey** was named partner at Nuremburg, Plevin, Heller & McCarthy in Cleveland.

**Stephen E. Geduldig** has joined McNees, Wallace & Nurick. He will concentrate his practice in the defense of liability claims against municipal and other governmental employees and agencies.

**Keelin G. O'Neill** and **Nancy A. Varley** have organized Lawyers Unlimited, Inc., a firm specializing in the placement of attorneys on a project-by-project basis in Cleveland.

## 1983

**Philip L. Francis** sent us: "Effective as of October 1990, I accepted a position as in-house/staff counsel for Citizens Savings Bank of Canton. Citizens is a well-capitalized and highly solvent, state-chartered savings and loan association with ten offices located throughout Stark County, Ohio."

**Steven M. Gonzalez** is now a partner at Marshall, Gonzalez & Carlson in Houston, Texas.

**Beth A. Moriarty** was named partner at Taraska, Grower, Unger & Ketcham in Cocoa, Florida.

## 1985

**David W. Leopold** has been selected by the State of Israel Bonds as the recipient of the Arevim Award. He also recently spoke to the Young Business and Professional Group of the Jewish Community Federation.

**Richard Oparil** has been working *pro bono* for legal-aid agencies challenging the Legal Services Corporation's policy against cases dealing with redistricting. His picture appeared with a lengthy article in a recent issue of *Legal Times*.

## 1986

The date for the 5-year reunion has been set—Saturday, September 21, 1991. So far, the planning committee consists of Michelle Williams, Tony Konkoly, Ed Weinstein and George Majoros. Please let us know if you would like to help.

From **Brian S. Belson** we received: "I am pleased to announce that I have opened my own office for the practice of law in Turnersville, New Jersey. I am a sole practitioner with a general practice, with emphasis on family law, criminal law, and litigation."

**Karen Walter Mitchell** sent us: "I am delighted to announce that I have opened my own private practice in Palm Beach Gardens, Florida!"

**David H. Wallace** has been appointed chair of the Young Lawyers Committee of the Defense Research Institute.

## 1987

**Timothy M. Fox** has left Hermann, Cahn & Schneider in Cleveland and joined Ulmer & Berne.

**John F. McCaffrey** tells us: "I have just recently returned to the Cleveland area after living in New Jersey for three years. While in New Jersey, I served as a special agent in the FBI assigned to Newark. I am now applying my legal and law enforcement training in my new position in the Cuyahoga County Prosecutor's office."



**John Nolan** has been appointed to the post of administrative coordinator of the AIDS Commission of Greater Cleveland by the Federation for Community Planning.

### 1988

**Corinth Bishop** and **Joseph Williams** have joined the Illinois Attorney General's Office in Chicago.

**Timothy J. Downing** has left Rose, Schmidt, Hasley & Disalle in Pittsburgh and joined Ulmer & Berne in Cleveland.

### 1989

**Dawn L. Haghighi** spoke at the first Sino-American Conference on Women's Issues held in Beijing, China. She then traveled to Hong Kong where she spoke at a Baha'i sponsored meeting among professional women.

### 1990

**Stephen G. York** has an article forthcoming in the *Loyola Law Review*: "Hagar and Bilhah Reconsidered: Three Contract Theories and Surrogate Motherhood, and Why Surrogate Mothers Cannot Rationally Agree to Terminate Their Parental Rights Before the Birth of the Child."



*Dawn Haghighi '89 with Ma Yuan, vice president of the Supreme Court of China.*

## Alumni Association Elects New Officers

At the Alumni Association's annual meeting in September new officers were elected to two-year terms: Stuart A. Laven '70, president; Edward Kancler '64, vice president; Sara J. Harper '52, secretary (re-elected); Lee J. Dunn, Jr., treasurer.

Stuart Laven, a partner in the Cleveland firm of Ulmer & Berne, has a general business and corporate practice that includes securities, commercial law, corporations, real estate, mergers and acquisitions, oil and gas, and civil litigation. He has chaired the Cleveland Bar Association's Section on Securities Law and chaired the Eleventh Securities Law Institute; he serves on the Executive Committee of the Section on Corporation, Banking, and Business Law. He served a three-year term on the Alumni Association's Board of Governors, 1984 to 1987, then spent a year as secretary and two years as vice president. He represents the law school on the CWRU Alumni Council.

Edward Kancler, who just completed a year as chair of the law school's Annual Fund, practices with Benesch, Friedlander, Coplan & Aronoff in Cleveland. Sara Harper, another Clevelander, has been a municipal judge and was just elected to the Ohio Court of Appeals; incidentally, in 1952 she was the first black woman to graduate from the law school. Lee Dunn,



*Stuart A. Laven '70, president of the Law Alumni Association.*

a Bostonian whose firm is Dunn & Auton, has a law-medicine practice; earlier in his career he was counsel to the University of Kansas Medical Center and Northwestern Memorial Hospital in Chicago.

The four alumni officers come from a varied educational background. Laven was a chemistry major at the University of Pennsylvania. Kancler graduated from Ohio University, and Harper from Western Reserve University's Cleveland College (the downtown adult education

unit that flourished in the years after World War II). Dunn holds the B.A. from Columbia University and the LL.M. from Harvard.

Eight persons were elected to three-year terms on the association's Board of Governors. Carolyn Watts Allen '72 is director of public safety for the City of Cleveland. Nicholas E. Calio '78 is President George Bush's deputy assistant for legislative affairs. Lloyd J. Colenback '53 is general partner of the One Lake Erie Center Company in Toledo.

The other five are in private practice in Cleveland. George J. Durkin '62 is with Cavitch, Familo & Durkin. Mary Ann Rabin '78, who started law school some twenty years after receiving her B.A. degree (in music), has her own law office and specializes in debtor-creditor law. Jan Lee Roller '78 does personal injury litigation as a partner with Davis & Young. James L. Ryhal, Jr. '52 practices with Gallagher, Sharp, Fulton & Norman, and John D. Wheeler '64 with Calfee, Halter & Griswold.

They replace eight board members whose terms ended in 1990: James A. Clark '77, Lee J. Dunn, Jr. '70, Mary Anne Garvey '80, Joan E. Harley '57, Owen L. Heggs '67, Milton A. Marquis '84, Leonard P. Schur '48, and Mary Ann Zimmer '75.



## 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 1942

Peter H. Behrendt  
William Bradford Martin

### Class of 1943

David J. Winer

### Class of 1947

George J. Dynda

### 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

Robert L. Quigley

### Class of 1952

Anthony C. Caruso  
Frank J. Miller, Jr.  
Allan Arthur Riippa

### Class of 1958

Leonard David Brown

### 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

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  
Karen Hammerstrom  
Michael D. Paris

### Class of 1972

Steven Brooks Garfield

### Class of 1973

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

### Class of 1974

Glen M. Rickles  
John W. Wiley

### Class of 1976

A. Carl Maier

### Class of 1978

Lenore M. J. Simon  
Jonathan S. Taylor

### Class of 1979

Corbie V. C. Chupick  
Gregory Allan McFadden

### Class of 1980

John J. Danello  
Stephen Edward Dobush  
Lewette A. Fielding

### Class of 1981

Peter Shane Burleigh  
Herbert L. Lawrence

### Class of 1982

Heather J. Broadhurst  
Mark A. Ingram  
Stephen A. Watson

### Class of 1983

David Steele Marshall  
Alayne Marcy Rosenfeld

### Class of 1987

Edward M. Aretz  
Ralf W. Greenwood

### Class of 1988

Milan Robert Yancich

### Class of 1989

James Burdett  
Robert Marc Neault  
Lisa R. Schwartz  
Gwenna Rose Wootress

## Case Western Reserve University Law Alumni Association

### Officers

#### President

Stuart A. Laven '70

#### Vice President

Edward Kancler '64

#### Regional Vice Presidents

Akron—Edward Kaminski '59  
Boston—Dianne Hobbs '81  
Canton—Stephen F. Belden '79  
Chicago—Miles J. Zaremeski '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.—  
Douglas W. Charnas '78

#### Secretary

Sara J. Harper '52

#### Treasurer

Lee J. Dunn, Jr. '70

### Board of Governors

Carolyn Watts Allen '72  
Oakley V. Andrews '65  
Napoleon A. Bell '54  
Columbus, Ohio  
Nicholas E. Calio '78  
Washington, D.C.  
Lloyd J. Colenback '53  
Toledo, Ohio  
Carolyn Wesley Davenport '80  
New York, New York  
George J. Durkin '62  
Dominic J. Fallon '59  
David D. Green '82  
Margaret J. Grover '83  
San Francisco, California  
Herbert J. Hoppe, Jr. '53  
Nancy A. Hronek '82  
Hartford, Connecticut  
Mary Ann Jorgenson '75  
Margery B. Koosed '74  
Akron, Ohio  
Jeffrey S. Leavitt '73  
Gerald A. Messerman '61  
Mary Ann Rabin '78  
Jan L. Roller '79  
James L. Ryhal, Jr. '52  
David A. Schaefer '74  
Roland H. Strasshofer, Jr. '50  
John D. Wheeler '64  
James R. Willis '52  
C. David Zoba '80  
Dallas, Texas

## In Memoriam

Elmer J. Babin '26  
November 24, 1990

Kenneth A. Mason '28  
November 11, 1989

Benjamin Reich '33  
September 8, 1990

Carl W. Robinette '36  
June 19, 1988

Ruth H. Stromberg '37  
November 15, 1990

Frank Seth Hurd '39  
Society of Benchers  
September 14, 1990

Roland W. Riggs II '48  
July 20, 1990

Morris Zipper '49  
June 7, 1990

John J. Dalton '50  
December 5, 1990

Donald E. Ryan '51  
August 15, 1990

Donald E. Nagle '54  
October 23, 1990

Frederic B. Schramm  
'55 LL.M.  
September 20, 1990

James A. Young '60  
September 17, 1990

Gary A. Ferber '62  
September 26, 1990

Chester S. Weinerman '71  
November 26, 1990

John D. Humbert '81  
May 10, 1990



# Calendar of Events

**Jan**

- 13 Orange County (California) Alumni Dinner  
with Professor Gerald Korngold
- 29 Ault Mock Trial Team Night

**Feb**

- 5 Los Angeles Alumni Luncheon
- 6 San Francisco Alumni Luncheon
- 8 Seattle Alumni Luncheon
- 16 Admissions Open House

**Mar**

- 3 Client Counseling Competition Final Round
- 15 Pittsburgh Alumni Luncheon
- 18 New York Alumni Reception
- 19 Boston Alumni Luncheon
- 20 Philadelphia Alumni Luncheon
- 23 Phlegm Snopes Basketball Tournament  
Championship Game
- 25-28 Conference of Federal Judges
- 27 Law-Medicine-Center—Public Lecture  
The Oliver C. Schroeder, Jr., Scholar in Residence  
Alexander Morgan Capron  
University Professor of Law & Medicine  
University of Southern California

**Apr**

- 6 Black Law Students Association Annual Banquet  
Speaker: R. Kenneth Mundy '57
- 12-14 Conference—Canada/U.S. Law Institute (see page 22)  
*The Law and Economics of Disputes Resolution in the  
Canada/U.S. Context*
- 19 Faculty/Alumni Luncheon—Cleveland
- 20 Dean Dunmore Moot Court Competition, Final Round

**May**

- 17 Commencement—Scott Turow, Speaker
- 22 Detroit CWRU Alumni Chapter Meeting  
Speaker: Professor Rebecca Dresser

**Sep**

- 20 & 21 Law Alumni Weekend—Class Reunions

For further information: **Office of External Affairs**  
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**School of Law**  
**11075 East Boulevard**  
**Cleveland, Ohio 44106**  
**216-368-3860**



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