

Judges' Day 2005



ⓄCTⓄBER 27



Announcing our Fourth Annual Judges' Day: October 27, 2005

For the past three years, The Ohio State University Moritz College of Law's Judges' Day has played a special role in increasing the stream of ideas that flow between the academy and the judiciary. This year, Moritz Law will continue the tradition of inviting judges we believe will influence our faculty and inspire our students. I hope you will be among our guests this year.

We have invited two scholars who knew Justice Sandra Day O'Connor best to share their reflections on her impact and legacy. They are John Deaver Drinko-Baker & Hostetler Chair Deborah Jones Merritt, who clerked for Justice O'Connor during the 1981-1982 term, and Ronnell Andersen Jones, a 2000 Moritz alumna and visiting faculty fellow at the University of Arizona James E. Rogers College of Law, who clerked for the Justice during the 2003-2004 term.

With an eye toward the future, four Moritz faculty will look at new technologies and their evolving role in the work of the courts. Professor Douglas Berman, whose blog on federal sentencing has become a "must read" for jurists nationally, will discuss how blogs can serve judicial decision-making. Joseph S. Platt/Porter Wright Morris & Arthur Professor of Law Peter Shane will outline strategies for courts wishing to enter the world of e-democracy to facilitate greater public dialogue and involvement. Professor Peter Swire, the Clinton Administration's Chief Counselor for Privacy, will discuss current updates on how courts are working to resolve the tension between making records accessible over the Internet while also protecting the privacy of individuals. Professor Ed Lee will offer observations and suggestions on how courts might improve their use of webcasting to benefit lawyers, law students, and the public at large.

Drawing on the College's nationally-recognized alternative dispute resolution program, presenters will look at the enforceability of mandatory arbitration in consumer and employment disputes. Lawrence D. Stanley Professor of Law Gregory M. Travaglio will explore the increasing use of mandatory arbitration provisions in consumer contracts. Squire Sanders & Dempsey Designated Professor Sarah R. Cole will examine whether arbitration agreements may prohibit class actions in court. Moritz alumnus and noted employment lawyer Charles C. Warner '70 will look at "mandatory" arbitration clauses in employment applications and the court's role in enforcement.

Last year, the unique Election Law @ Moritz project utilized the Internet to bring timely, scholarly, and non-partisan expertise into the election process. Out of this award-winning project comes a special program focusing on the increasing role of the judiciary in elections. Professor Steven Huefner, citing five recent cases, will suggest when it is, and is not, appropriate for the judiciary to involve itself in elections. Professor Dan Tokaji will outline how the 2004 election experience shows that courts have an important and constructive role to play in making our election system function better, and the important lessons for election officials, litigators, and the courts that can be drawn. Joining them to provide a view from the bench on election matters will be the Hon. Algenon L. Marbley of the U.S. District Court for the Southern District of Ohio.

I hope we have intrigued you with this day of possibilities. We would be honored if you and your clerks would join us on October 27. In return, we promise to do our very best to replicate the intellectual excitement that drew you to the study of law in the first place.

Nancy H. Rogers Dean
and Michael E. Moritz Chair in Alternative Dispute Resolution

9:30 a.m. – 10:00 a.m.

Registration and Welcome Coffee

Barrister Club

25 W. 11th Avenue

10:00 a.m. – Noon

Moritz College of Law

Room 250

“New Technologies and Their Evolving Role in the Work of the Courts”

Professor Douglas A. Berman

Professor Edward S. Lee

Joseph S. Platt/Porter Wright Morris & Arthur Professor Peter M. Shane

Professor Peter Swire

This session will provide 2.0 hours Ohio CLE credit.

Noon – 1:00 p.m.

Moritz College of Law

Room 250

“The Increasing Role of the Judiciary in Elections” – A Presentation of the Election Law @ Moritz Project

Professor Steven Huefner

Professor Daniel P. Tokaji

Hon. Algenon L. Marbley, U.S. District Court, Southern District of Ohio

This session will provide 1.0 hour Ohio CLE credit.

1:00 – 2:00 p.m. Lunch

Barrister Club

Presentation of the Moritz William K. Thomas Distinguished Jurist Award to George C. Smith '59, U.S. District Court, Southern District of Ohio, and Recognition of the late Judge Robert Puglia of California Court of Appeal, Third District

2:00 – 3:00 p.m.

Moritz College of Law

Room 246

“Enforceability of Mandatory Arbitration in Consumer and Employment Disputes”

Squire, Sanders & Dempsey Designated Professor Sarah R. Cole

Lawrence D. Stanley Professor Gregory M. Travaglio

Mr. Charles C. Warner '70

This session will provide 1.0 hour Ohio CLE credit.

3:00 – 4:00 p.m.

Moritz College of Law

Room 246

Strong Lecture: “Justice Sandra Day O’Connor and the Rule of Law”

John Deaver Drinko-Baker & Hostetler Chair Deborah Jones Merritt

Professor RonNell Jones, University of Arizona James E. Rogers College of Law

4:00 p.m.

Reception for Judges, Clerks and Faculty

Barrister Club

Registration for Judges' Day must be faxed (614-247-7079) to the Moritz College of Law by October 21, 2005.

Please respond by using the form on page 11 or use our form on the web at:

<http://moritzlaw.osu.edu/alumni/events/judges.html>

New Technologies and Their Evolving Role in the Work of the Courts

This session will provide 2.0 hours Ohio CLE credit.



“The Virtues of Blogs for the Work of the Court”

Professor Douglas A. Berman

Professor Berman received his A.B. *summa cum laude* from Princeton University and his J.D. *magna cum laude* from Harvard, where he was the editor and developments office chair of the *Harvard Law Review*. He has served as a law clerk for Judge Jon O. Newman and then for Judge Guido Calabresi, both on the U.S. Court of Appeals for the Second Circuit. One of the youngest faculty to receive the OSU Alumni Award for Distinguished Teaching, Professor Berman is an editor of the *Federal Sentencing Reporter*, and serves as co-managing editor of the *Ohio State Journal of Criminal Law*. Professor Berman is the author of the widely-read blog, “Sentencing Law and Policy,” which receives over 50,000 “hits” per month. It has been cited in multiple federal court opinions, and is the first blog cited by the U.S. Supreme Court.

“Connecting Courts to the People”

Peter Shane

Joseph S. Platt/Porter Wright Morris & Arthur Professor of Law;
Director, Center for Interdisciplinary Law and Policy Study

Professor Shane received his A.B. *magna cum laude*, from Harvard, and his J.D. from Yale Law School. Director of the Moritz Center for Interdisciplinary Law and Policy, he is also the Distinguished Service Professor (adjunct) of Law and Public Policy at Carnegie Mellon University’s H. J. Heinz III School of Law and Public Policy, where he chairs the board of advisors of their Institute for the Study of Information Technology and Society (InSITEs), which he helped found in 2001. His work is concentrated in U.S. constitutional and administrative law, with a special focus on separation of powers issues, and “electronic democracy”: the use of new information technologies to enhance political engagement. He is faculty editor of *I/S: A Journal of Law and Policy for the Information Society*, an interdisciplinary forum to addressing pressing issues of law and policy related to digital information and communications technologies.



“Court Records: On-Line or Over the Line”

Professor Peter Swire

Professor Swire received his A.B. *summa cum laude* from Princeton University and his J.D. from Yale Law School, where he served as senior editor of the *Yale Law Journal*. He has clerked for Judge Ralph K. Winter, Jr., of the U. S. Court of Appeals for the Second Circuit. An internationally-recognized expert in the fields of privacy, computer security, and the law of cyberspace, he served as the Clinton Administration’s Chief Counselor for Privacy from 1999 to 2001. In that position, he was White House coordinator for the proposed and final HIPAA medical privacy rules, and chaired a White House Working Group on how to update surveillance law for the Internet age. He is co-editor of *Cyberspace Law Abstracts of the Social Science Research Network*, and directs of the Moritz Washington, D.C. Summer Program. As the inaugural John Glenn Scholar in Public Policy Research, he pursues cutting-edge research on significant public policy issues.

“The Emerging Role of Webcasts in Courts”

Professor Edward S. Lee

Professor Lee received his B.A. *summa cum laude* from Williams College and his J.D. from Harvard Law School, where he served as an editor and the co-chair of the books and commentaries office of the *Harvard Law Review*. His research focuses on the ways in which the Internet, technological development, and globalization challenge existing legal paradigms. Previously, he was an instructor at Stanford Law School and has served as a fellow at the school’s Center for Internet and Society (CIS), a center dedicated to the pursuit of the public interest in areas involving the intersection of law and technology. Before teaching, he practiced as an associate at Mayer, Brown & Platt in Washington, D.C., specializing in appellate and trial litigation, and also clerked for Judge John Noonan of the U.S. Court of Appeals for the Ninth Circuit.



A Presentation of the Election Law @ Moritz Program

<http://moritzlaw.osu.edu/electionlaw/>

This session will provide 1.0 hour Ohio CLE credit.

Professor Steven Huefner

Director, Legislation Clinic
Senior Fellow, Election Law @ Moritz

Professor Huefner received his A.B. *magna cum laude* from Harvard College and his J.D. from Columbia University. He was a Harlan Fiske Stone Scholar at Columbia, where he served as head articles editor for the *Columbia Law Review* and won the E.B. Convers Prize for the best original essay on a legal subject. He clerked for Justice Christine M. Durham of the Supreme Court of Utah and Judge David S. Tatel of the U.S. Court of Appeals for the District of Columbia Circuit. He spent two years in private practice at the law firm of Covington and Burling in Washington D.C., and served for five years in the Office of Senate Legal Counsel, United States Senate. He has published seven articles and has research interests in legislative process issues and democratic theory, including election law.



Professor Daniel P. Tokaji

Associate Director, Election Law @ Moritz

Professor Tokaji received his A.B. *summa cum laude* from Harvard College and his J.D. from Yale Law School where he served as editor of the *Yale Law Journal*. Following graduation he clerked for the Honorable Stephen Reinhardt of the U.S. Court of Appeals for the Ninth Circuit. He is presently the author of a blog called "Equal Vote," which can be found at <http://moritzlaw.osu.edu/blogs/tokaji/>. His blog focuses on election reform and the Help America Vote Act, with special attention to the impact of changes in our election system on the voting rights of people of color, non-English speaking voters, and people with disabilities. He served on the National Governing Board of Common Cause from 1999 to 2005, and was the chair of California Common Cause from 2000 to 2003.

Judge Algenon Marbley

U.S. District Court, Southern District of Ohio

Judge Algenon Marbley received his B.A. from UNC, and his J.D. from Northwestern University. He began his legal career at the Chicago, Illinois firm of Montgomery and Holland, then served as assistant general counsel in the Office of the Regional Attorney for the U.S. Department of Health and Human Services. In 1986, he joined the law firm of Vorys, Sater, Seymour and Pease, where he concentrated in civil litigation, and became partner in 1991. While at Vorys, he argued before the U.S. Courts of Appeals for the Sixth and Seventh Circuits, and the Ohio Appellate Courts, before he was appointed to the federal bench in 1997 by President Clinton. In addition to practicing law, he has taught trial advocacy at Capital University Law and Graduate Center and the National Institute for Trial Advocacy, as well as Criminal Law and Procedure at Northeastern Illinois University from 1984 to 1986, and serves as an adjunct professor at Moritz.



Distinguished Jurist Award



Judge George C. Smith '59

U.S. District Court, Southern District of Ohio

Winner of the Moritz College of Law's

William K. Thomas Distinguished Jurist Award



Special Tribute to the late

Hon. Robert K. Puglia

California Court of Appeal, Third District

Upon his graduation from The Ohio State University College of Law in 1959, George C. Smith began a distinguished public service career in his hometown of Columbus under the tutelage of Columbus City Attorney Chalmers P. Wylie. After three years as an assistant city attorney, he accepted a position as executive assistant to the Mayor at the age of 26. Continuing his meteoric rise, he joined Ohio Attorney General William B. Saxbe's office where he played a critical role in shaping Ohio's highway system.

Following a stint as chief counsel of Franklin County, George Smith was appointed prosecuting attorney for Franklin County and became one of the youngest to hold the post in a major metropolitan county in Ohio's history. Programs he initiated nearly 30 years ago to target criminal recidivists, personalize the prosecutor's office for victims of and witnesses to crime, and prosecute white collar crime and government corruption continue to flourish today. In 1976, the Ohio Prosecuting Attorney's Association honored him as "Prosecutor of the Year."

George Smith became Judge Smith with his appointment to the Municipal Court of Franklin County in 1980. Election to the Franklin County Court of Common Pleas quickly followed. He developed a reputation as a trial judge who respected and enforced the rule of law without favoritism, prejudice, or predisposition. The Supreme Court of Ohio conferred Judge Smith with awards for "Outstanding Judicial Service."

President Ronald Reagan appointed Judge Smith to the federal bench in 1987. There he has handled high-profile cases with fairness and efficiency. His academic approach has caused local bar associations, the Ohio State Bar Association, and the Judicial College of Ohio to seek his participation as a lecturer and author on practices, developments, and trends in law.

Throughout his tenure, Judge Smith has actively participated in a wide range of community activities, some of which place him in touch with those who come before his court. He has served on the Board of Elders of Covenant Presbyterian Church, the Board of Trustees of the Central Ohio Lung Association, as an active member of the Central Ohio Leukemia Society, as a contributor of time and talent for Project Hope, and as an advocate for Crime Stoppers. At the invitation of then Ohio Governor George V. Voinovich '64, Judge Smith chaired the Historical Marker Committee of the Ohio Bicentennial Commission.

It is our great pleasure to present at Judges' Day the William K. Thomas Award for 2005 to Judge George C. Smith, whose personal integrity and commitment to justice epitomize the highest ideals of the judiciary.

This session will provide 1.0 hour Ohio CLE credit.



Sarah R. Cole
Squire Sanders & Dempsey Designated Professor of Law

Professor Cole is a *cum laude* graduate of the University of Chicago Law School where she served as editor-in-chief of the *University of Chicago Legal Forum*. She received her B.A. *cum laude* from the University of Puget Sound. Following law school, she clerked for the Hon. Eugene A. Wright of the U.S. Court of Appeals for the Ninth Circuit. She teaches primarily in the area of alternative dispute resolution, and is a co-author of a leading treatise in the field of mediation and one of the leading dispute resolution casebooks in the country. She was a member of the academic advisory faculty that consulted with the National Conference of Commissioners on Uniform State Laws and the American Bar Association regarding the drafting of the Uniform Mediation Act. She also consults regularly with the Ohio State Bar Association Dispute Resolution Committee and the Supreme Court of Ohio Commission on Dispute Resolution.

Gregory M. Travaglio
Lawrence D. Stanley Professor of Law and Director of Clinical Programs

Professor Travaglio graduated *magna cum laude* from the University of Pittsburgh where he was first in his law school class and an associate editor of the *University of Pittsburgh Law Review*. In addition, he received an LL.M. from Columbia University School of Law. He is the author of *Ohio Consumer Law* and chapters in *Ohio Jury Instructions*, as well as a co-author of *Nordstrom on Sales and Leases of Goods*. He directs the Moritz Clinical Programs, which include a civil law practicum, criminal defense practicum, justice for children practicum, legislation clinic, prosecution practicum, legal negotiation and settlement, live-client, pretrial litigation, and mediation clinic. Previously, he was an associate with Wolf, Block, Schorr, and Solis-Cohen in Philadelphia. He serves in the U.S. Army Reserve as a colonel in the Judge Advocate General's Corps.



Charles C. Warner '70
Porter Wright Morris & Arthur

Mr. Warner received his B.A. from Yale University and his J.D. *cum laude* from The Ohio State University. He represents employers in connection with discrimination charges, express and implied employment contract issues, employment practices, and related tort and benefit claims. A partner in the firm of Porter Wright Morris & Arthur, his wide litigation experience includes the defense of both opt-out and opt-in class actions. He is a fellow of the College of Labor and Employment Lawyers and is listed in *The Best Lawyers in America* for Labor and Employment Law. A leader within the profession, he has been active as management chair of the American Bar Association's Equal Employment Opportunity Committee and served on the Ohio State Bar Association's Council of Delegates. He is a former president of the Columbus Bar Association, and a trustee and fellow of Columbus Bar Foundation.



“Justice Sandra Day O’Connor and the Rule of Law”

Moritz Professor Deborah Jones Merritt clerked for Justice Sandra Day O’Connor during her historic first term on the Supreme Court of the United States, while Moritz alumna RonNell Andersen Jones ’00 clerked for O’Connor as she neared completion of her twenty-four years on the Court. Together, Professors Merritt and Jones will discuss O’Connor’s historic role, her legacy as a Supreme Court Justice, and her special approach to judging. In addition to providing their unique insights, Jones and Merritt will invite members of the audience to offer their own perspectives on Justice O’Connor’s decisions and judicial philosophy. This special Strong Lecture will illuminate Justice O’Connor’s jurisprudence, which remains central to so many of the Court’s decisions, while also contributing to a national dialogue on O’Connor’s judicial legacy.



Deborah Jones Merritt
John Deaver Drinko-Baker & Hostetler Chair in Law

Professor Merritt graduated from Harvard College *summa cum laude* and from Columbia Law School. While at Columbia, she was managing editor of the *Columbia Law Review* and won the Robert Noxon Toppin Prize. After graduation, she clerked for Judge (now Justice) Ruth Bader Ginsburg on the U.S. Court of Appeals for the District of Columbia Circuit, and for Justice Sandra Day O’Connor on the U.S. Supreme Court. She has published widely on issues of equality, affirmative action, federalism, health and technology, legal education, tort reform, and law and social science. She has also co-taught courses in Europe with both Justice Ginsburg and Justice O’Connor. She has been honored by OSU as a Distinguished Lecturer, a University Distinguished Scholar, and has received its Distinguished Diversity Enhancement Award. From 2000-2005, she directed the John Glenn Institute, a University-wide institute devoted to encouraging public service and informing public policy.

RonNell Andersen Jones
Professor, University of Arizona James E. Rogers College of Law

After studying journalism and working as a newspaper reporter and editor, RonNell Andersen Jones attended law school at The Ohio State University, where she led the college’s Women’s Law Caucus and served as both a staff member of the *Ohio State Law Journal* and as student editor of *the Journal of Communications Law & Policy*. She graduated first in her class, and was elected to the Order of the Coif. She worked for three years at Jones Day and served as a law clerk to Judge William A. Fletcher of the U.S. Court of Appeals for the Ninth Circuit and to Justice Sandra Day O’Connor of the U.S. Supreme Court. She is a past recipient of OSU’s Strong Award for Excellence in Legal Writing and its Thompson Alumni Award for Early Career Achievement. She previously taught media law at OSU’s School of Journalism and at Ohio Wesleyan University. At Arizona, Jones teaches in the areas of media law and statutory interpretation.



Reception for Judges, Clerks, and Faculty in the Barrister Club

*Porter, Wright, Morris & Arthur Lounge
Chester Willcox & Saxbe LLP Terrace*



Our goal at The Ohio State University's Moritz College of Law is to create one of the nation's best learning environments – a vibrant, stimulating community in which our students are continuously challenged to push their analytical reach, and every graduate is equipped to master complex intellectual challenges with professionalism and integrity.

Central to achieving this goal is the Barrister Club, a \$2.2 million privately-financed conference/dining facility built specifically to foster interaction between students, faculty, alumni, jurists and others in the bar through programs that affirm their shared belief that lawyers have the opportunity and obligation to serve others – to make a positive difference in the lives of others as a member of the legal profession.

Baker & Hostetler Dining Room



The Barrister Club is the site of an innovative mentoring program that places Moritz students in relationships with practicing attorneys and jurists whose careers reflect the highest ideals of the profession. Mentors, faculty, and students come together to hear nationally-recognized speakers and engage in discussions and debate that illuminate current ethical, political, and social issues here and around the world.

The Barrister Club will also house continuing legal education offerings that are a natural outgrowth of the College's extensive workshops, an annual Blackmun Lecture, and a series of special events.

For Moritz Law, the creation of apartments for law students and the Barrister Club generates new learning opportunities and an exciting law campus within The Ohio State University. We thank you for coming to Judges' Day at the Barrister Club and encourage you to return often to experience first-hand our community of scholars.

Vorys, Sater, Seymour and Pease LLP Conference Room



Registration and Parking

Registration for Judges' Day must be received by the Moritz College of Law by October 21, 2005. Please respond by faxing the registration form on page eleven to (614) 247-7079, or use our form on the web at <http://moritzlaw.osu.edu/alumni/events/judges.html>. Registration confirmation will be sent if you have provided an email address on your registration form.

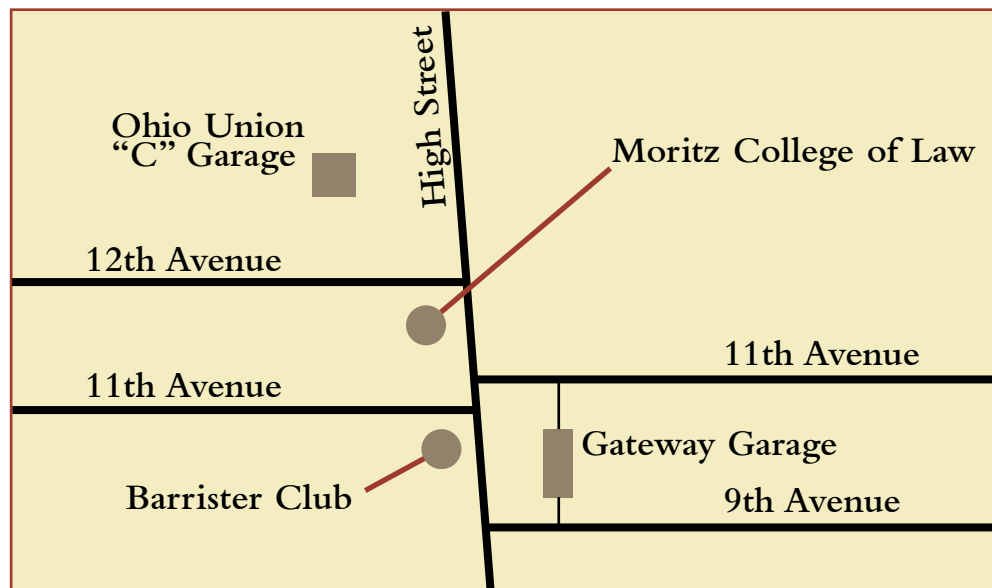
Activities will take place at the Moritz College of Law, Drinko Hall, 55 W. 12th Avenue, Columbus, OH, 43210 and across the street at the new Barrister Club, 25 W. 11th Avenue, Columbus, OH, 43201. For door-to-door directions, please consult www.mapquest.com.

Parking for the event is available at the Gateway Garage east of High Street between 9th & 11th avenues. Free parking passes will be provided to attendees, and can be picked up at the registration table in the Moritz College lobby for use upon exiting the garage. The Ohio Union "C" garage is also available.

Drinko Hall, which houses the Moritz College, and the Barrister club meet all ADA requirements and are fully handicap-accessible. However, if you have special needs, please be sure to note them on the registration form, and we will be happy to assist you.

Judges' Day is sponsored by the Moritz College of Law's Professional Relations Team. For more information, please contact Interim Director of Alumni Relations, Laura Landy Carr at (614) 292-2937 or carr.275@osu.edu.

This program was made possible by the generosity of Lou Ann Moritz and the late Michael E. Moritz '61, who established the Gregory H. Williams Dean's Fund for Excellence.



Attribution

Pictured on the front cover are Supreme Court of Ohio Chief Justice Thomas J. Moyer '64 and the Hon. David A. Katz '57 of the U.S. District Court, Northern District of Ohio. They shared their perspectives on judicial independence at a meeting of the Moritz National Alumni Council, The Ohio State University Board of Trustees, and members of the Mentoring and More @ Moritz Program in the College's new Barrister Club.

The entire program is free of charge. Please be our guest.

Please fax your registration to the Moritz College of Law by October 21, 2005. Fax: (614) 247-7079

Name:

Court Name:

(Please print your name and court name as you would like it to appear on your nametag.)

Email:

Work Phone: () - Fax Number: () -

Address:

City: State: Zip:

Names of the judicial clerk(s) I will be bringing from my office:

<input style="width: 100%; height: 20px;" type="text"/>	<input style="width: 100%; height: 20px;" type="text"/>
<input style="width: 100%; height: 20px;" type="text"/>	<input style="width: 100%; height: 20px;" type="text"/>

Please note which events you and your clerks will be attending: Number Attending:

9:30 a.m. – 10:00 a.m. -----
 Welcome Coffee

10:00 a.m. – Noon -----
“New Technologies and Their Evolving Role in the Work of the Courts”
 This session will provide 2.0 hours of Ohio CLE credit.

Noon – 1:00 p.m. -----
“The Increasing Role of the Judiciary in Elections” – A Presentation of the Election Law @ Moritz Project
 This session will provide 1.0 hour of Ohio CLE credit.

1:00 p.m. – 2:00 p.m. – Lunch at the Barrister Club -----
 Presentation of the Moritz William K. Thomas Distinguished Jurist Award

2:00 p.m. – 3:00 p.m. -----
“Enforceability of Mandatory Arbitration in Consumer and Employment Disputes”
 This session has been approved for 1.0 hour of Ohio CLE credit.

3:00 p.m. – 4:00 p.m. -----
 Strong Lecture: “Justice Sandra Day O’Connor and the Rule of Law”

4:00 p.m. -----
 Reception for Judges, Clerks and Faculty at the Barrister Club

If you or your guests require ADA accommodations or have dietary restrictions, please describe them here:

Explore Election Law @ Moritz

Current information and insight on the laws governing federal, state and local elections:

<http://moritzlaw.osu.edu/electionlaw/>

Use our website to:

Find the latest in election news, analysis, key dates, events and related links

Monitor election litigation and trends

Contact Election Law faculty experts

Stay up to date with ongoing issues including:

- Access for individuals with disabilities
- Provisional voting
- Recounts and contests
- Referenda and initiatives
- Voting technology

Keep up to date on the latest legal news by checking out Moritz Law faculty web blogs:

Professor Douglas A. Berman's Sentencing Law and Policy Blog:

<http://sentencing.typepad.com/>

Professor Edward S. Lee's Forward Thinking in the Law Blog:

<http://www.elee.cc/content.php?page=blog.php>

Professor Daniel P. Tokaji's Equal Vote Blog:

<http://moritzlaw.osu.edu/blogs/tokaji/index.html>

Professor Dale Oesterle's Business Law Prof Blog:

http://lawprofessors.typepad.com/business_law/

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