

# SALT EQUALIZER

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## SALT EQUALIZER

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## SALT's Affirmative Action Committee Hard at Work

*Emily Houh, University of Cincinnati College of Law*

Particularly in light of November's election results, the struggle toward educational equality remains one of our most pressing concerns. The Supreme Court's 2003 ruling in *Grutter*, while providing some relief, is not only analytically and doctrinally problematic but, as a practical matter, it also invites myriad challenges to existing affirmative action programs in place at institutions of higher learning across the country. The SALT Affirmative Action Committee has been hard at work anticipating and responding to those and other challenges, and is also working toward pro-activism on issues of educational equality. On behalf of SALT, the committee members have taken on, and continued our work on, a number of important projects over the past few months.

This past June, SALT released — in conjunction with MALDEF, Americans for a Fair Chance (a project of the Leadership Conference on Civil Rights Education Fund), and the

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## Co-Presidents' Column

*Holly Maguigan, New York University School of Law*  
*Beto Juárez, St. Mary's University School of Law*



Greetings!

Three autumn events influence us very much. The election, as so many of you have noted, reminds us all of the enormous importance of the work of the Society of American Law Teachers in the cause of ensuring equality, diversity, and justice. On many fronts, including not least judicial nominations, we will all labor in the next years.

Another series of reminders of the work still to be done came in Las Vegas at our amazing teaching conference in October. "Class in the Classroom" was hosted by the University of Nevada, Las Vegas, William S. Boyd School of Law. Dean Richard Morgan and Associate Dean (and SALT Board Member) Joan Howarth could not have been more inviting. Dean Howarth and the other members of the committee — Tayyab Mahmud, Emily Houh, Patti Falk, Alfreda Robinson, Nancy Ota, and Bob Seibel — did a magnificent job. We came away inspired and energized. (Some of us even left a little richer! One SALT member was heard to mutter, "The Luxor has been very good to me.")

The third event that re-energizes us all is the election of the board of governors and officers. We are a volunteer organization. Our board is very active. SALT is fortunate to have

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## Co-Presidents:

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attracted busy and enthusiastic candidates. We are delighted to welcome them:

- **Patricia Falk** of Cleveland-Marshall College of Law, whose focus will continue to be “working toward the goals of inclusion and excellence”;
- **Kristin Booth Glen**, Dean of CUNY Law School and a critical leader of SALT’s work on the bar exam, whose goal is “the development of an alternative, skills-based experiential bar exam”;
- **Conrad Johnson** from Columbia Law School, who is happy to bring to SALT his experience using technology in “work that promotes understanding and attacks inequality”;
- **Robert Lancaster**, Indiana-Indianapolis, the mainstay of our Norman Amaker Public Interest and Social Justice Retreat;
- **Adele Morrison** of Northern Illinois University (currently visiting at Western New England), who is “especially interested in SALT’s testing and ranking work and in the conferences and other events that have proved so important to me as junior faculty”;
- **Camille Nelson**, St. Louis University School of Law, who looks forward to playing a role in “the coalition-building that is essential to SALT’s projects”;
- **Frank Wu**, the new Dean of Wayne State, who is attracted to service on the board for the same reason he chose that deanship: Both are “about academic activism, civic engagement, and bridge-building.”

We are also pleased to announce the re-election of incumbent Board members:

- **Nancy Ehrenreich** of Denver, co-chair of SALT’s Peace Post 9/11 Committee, who will continue her SALT work “because now, more than ever, a progressive legal

voice on public issues is critical”; and

- **Joan Howarth**, UNLV, whose work on the recent teaching conference was key to its great success, and who will concentrate in this next period on “SALT’s activist campaigns to dismantle barriers to our profession and to build social justice.”

It is with particular delight that we announce the election of our Co-Presidents-Elect. They will take office in January 2006:

- **Eileen Kaufman**, who teaches at Touro, is the chair of SALT’s Committee on

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*“The election, as so many of you have noted, reminds us all of the enormous importance of the work of the Society of American Law Teachers in the cause of ensuring equality, diversity, and justice.”*

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the Bar Exam and Alternatives to the Bar Exam. She writes that “SALT will always be a home for those who went to law school believing that the law can be an instrument of social change;” and

- **Tayyab Mahmud** of John Marshall Law School chaired SALT’s 2004 Teaching Conference Committee, and he is co-chair of the committee that will present the

January 2005 Robert Cover Workshop at AALS. He describes his upcoming co-presidency as a way of “transgressing the real and imagined divides between the legal academy and imperatives of social justice.”

SALT does an amazing number of things on an incredibly small budget. We thank all of you who have renewed your membership dues, which provide the bulk of our budget. And for those of you who haven’t done so yet, take a moment now to mail your membership check, or to ask your school to send the check to us. You’ll find a renewal form on the inside back cover of this issue of the *Equalizer*.

Not everyone is able to contribute to SALT’s work with time. We want to remind you of two opportunities to contribute in other ways to SALT’s work. Former SALT President Norman Dorsen made a generous contribution to SALT for the Dorsen Fellowship, which funds a law student to assist the Co-Presidents in carrying out SALT’s work. The gift is conditioned on SALT’s raising \$12,000 in matching funds each year. The Stuart & Ellen Filler Fund supports the work of law students doing public interest work in the summer.

What’s next? We’ll see you at various events at the AALS meeting in January: Wednesday, January 5th, the faculty mentoring reception; Friday, January 7th, the Cover Study Group; and Saturday, January 8th, our Annual Awards Dinner. (See page 10 of this issue of the *Equalizer* for further details about each event.) We also look forward to our spring annual public interest and social justice retreats and encourage all of you to attend. You will come away with new energy from the Tina M. Grillo Retreat in California, the Norman Amaker Retreat in Indiana, and the Robert Cover Retreat in New Hampshire (see page 13 for details).

Warmest wishes,  
Holly and Beto

## Affirmative Action:

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Equal Justice Society — a report analyzing the ten-percent plans that are used as “race neutral” alternatives to affirmative action in states like Texas and Florida. The report, titled “Blend It, Don’t End It: Affirmative Action and the Texas Ten Percent Plan After *Grutter* and *Gratz*” and authored by Bill Kidder, confirms that ten-percent plans contribute significantly to socioeconomic, geographic, and racial/ethnic diversity. However, the report also concludes that affirmative action programs, such as the University of Michigan Law School plan upheld by the Supreme Court in *Grutter*, must be used together with ten-percent plans to achieve and ensure racial equality in higher education. Thus, the report, which examines specifically the impact of ten-percent plans at flagship public institutions such as the University of Texas at Austin and Texas A&M University, strongly supports UT-Austin’s proposal to reintroduce affirmative action in admitting its entering class of Fall 2005 and strongly opposes Texas A&M’s decision *not* to do so. Significantly, the report also identifies seven key things that universities can and should do to implement legally-permissible affirmative action programs and to affirm their support of diversity, which include:

- looking beyond the numbers to holistically evaluate each applicant;
- developing a diversity policy statement;
- documenting the educational benefits of diversity and, if applicable, the institution’s prior record of discrimination;
- developing broad diversity goals and maintaining sound criteria;

- reviewing legacy policies and evaluating the potential disparate impact on students of color;
- periodically reviewing whether there are workable race-neutral alternatives to affirmative action; and
- eliminating other artificial barriers to inclusion.

The full report, executive summary, and talking points are all available on the SALT website, at <http://www.saltlaw.org/PostGrutterReport.doc>.

The Affirmative Action Committee also put together a plenary session for the October 2004 Teaching Conference at the William S. Boyd School of Law at the University of Nevada, Las Vegas. The session, “Affirmative Action after *Grutter*,” cautioned against current political and legal trends aiming to “de-race” class-based affirmative action programs (such as the ten-percent plans referenced above), as well as those aiming to “de-class” constitutional race-based affirmative action programs. Featured panelists included Margaret Montoya (New Mexico), Beto Juárez (St. Mary’s), and Goodwin Liu (Boalt), each of whom discussed the importance of sophisticated, intersectional analyses of educational equality and affirmative action. Professors Montoya, Juárez, and Liu addressed, respectively, the K-20 educational pipeline; the impact of ten-percent plans on racial diversity, integration, and segregation in Texas schools; and how race-based affirmative action actually *increases* socioeconomic diversity. An abridged version of Goodwin Liu’s presentation — which empirically deconstructs the argument that schools employing race-based affirmative action programs admit students of color at the expense of poor and working-class white students — will soon be available on the SALT website. A lengthier article is forthcoming in the *Notre Dame Law Review* (80 *Notre Dame L. Rev.* \_\_\_\_ (forthcoming 2004)).

Members of the Affirmative Action Committee are also in the process of developing a SALT pamphlet that will serve as a condensed reference tool, for college and university deans, faculties, and administrators nationwide, on how to affirm and protect diversity through the implementation of constitutionally-permissible affirmative action programs. The pamphlet will include sections on the history of SALT’s involvement with affirmative action and educational equality issues, SALT’s position on the LSAT, post-*Grutter* best practices, and a bibliography of affirmative action resources. Because the production of the SALT Affirmative Action pamphlet will require substantial resources, we urge those of you interested in getting involved in SALT projects to help us in raising the funds necessary to complete this important project.

Along similar lines, Committee members and members of CLEA, the Clinical Legal Education Association, met a few months ago in Chicago to discuss how proactively to bring schools’ admissions policies in line with the diversity commitments set forth in *Grutter*. Specifically, participants discussed current ABA standards and how those standards should be modified to express a deeper commitment to law school diversity in a manner consistent with *Grutter*. To that end, Committee and CLEA members currently are developing a proposal to modify the language of the relevant ABA standards. In the near future, SALT and CLEA will jointly submit the proposal to the ABA standards committee.

SALT recently also has committed to supporting a written response to a much-anticipated article, “A Systemic Analysis of Affirmative Action in American Law Schools,” authored by Richard Sander (UCLA) and forthcoming in the *Stanford Law Review*. Sander argues in his piece that affirmative action has done more to

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## Am I Blue? Judicial Nominations Will Be a Continuing Battleground in the Second Bush Term

Bob Dinerstein, American University,  
Washington College of Law

By now, you've probably heard that George Bush won re-election as President on November 2. It took me a number of days before I was fully persuaded that this was not some bad dream sequence à la the Dallas TV series (after all, CBS just aired a Dallas "reunion"), in which, you may recall, an entire TV season was wiped out when it was revealed in the last episode that it had all been a dream. Would that our political spectacle could be wished away so easily.

For the purposes of judicial nominations, of course, Bush's re-election means that progressives and other people of good cheer (and good judgment) will be fighting a battle against unacceptable nominees, rather than pushing for confirmation of acceptable if not perfect choices that one hopes would have emanated from a Kerry Administration. The battle will be more difficult than it has been in the last two years for a number of reasons.

First, there is the make-up of the new Senate: 55 Republicans, as opposed to the 51 in the current Congress. Some of those new Republican pick-ups, especially in Oklahoma and South Carolina, have made statements during the campaign (on reproductive choice and gay rights, among other things) that suggest that the level of extremism on the Republican side will be even greater than it has been in the last two years. While the Republican majority is still five votes below the number needed for cloture on filibusters, the GOP is considerably closer to that mark, and moderate to conservative Democrats will be subjected to a lot of pressure to join their Republican col-

leagues to override filibusters.

Second, there is talk again of what some have called the "nuclear option" of changing the Senate rules to prevent filibusters of judicial nominees. Democrats resisted these efforts in the last Congress, but, again, the new Senate make-up and the belief that the President has a "mandate" may make such resistance more difficult this time around. And even if the rules are not changed, the threat to do so

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*"Bush's re-election means that progressives ... will be fighting a battle against unacceptable nominees, rather than pushing for confirmation of acceptable if not perfect choices that one hopes would have emanated from a Kerry Administration."*

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may cow some Democrats into supporting — or at least being unwilling to filibuster — some questionable judicial candidates.

Third, while we dodged the bullet of a Supreme Court vacancy during the first Bush term — recall that two summers ago, speculation was rife that at least one Supreme Court Justice would retire — the chances of doing so again are minimal. In addition to Chief Justice Rehnquist's recent diagnosis of thyroid cancer, the age and length of service of several justices —

including Justice Stevens from the liberal (or is it moderate?) wing — would suggest that at least two if not three or four vacancies might occur during the next four years. If President Bush persists in his view that Justices Thomas and Scalia are his exemplars of the kind of justice he'd like to appoint, we will be in for a very long, and probably bitter, fight. Even if he broadens his criteria somewhat (a moderate Hispanic, for example), it is almost certain that the judicial philosophies and commitments of the Bush nominees will be an anathema to many SALT members. Of course, it matters greatly not only the number of vacancies but which seats are vacated. Replacing Chief Justice Rehnquist does not put *Roe v. Wade* in any greater jeopardy than it already is in, but replacing Justice Stevens is a different matter entirely.

If there is any good news in this scenario (I'm trying, I'm trying), it is that, at least as of this writing, Senator Arlen Specter (R-PA), a relatively moderate (and pro-choice) Republican, is slated to become chair of the Senate Judiciary Committee. Republican caucus rules require the incumbent chair, Orrin Hatch (R-UT), to step down, and the next most senior Republican on the committee, Senator Grassley, has disclaimed any interest in serving as chair. One of Specter's first post-election comments, to the effect that a hardcore anti-abortion Supreme Court nominee might have trouble being confirmed by the Senate, has led to a predictable firestorm of criticism from a number of Bush supporters. But, as he also pointed out, Specter supported every Bush judicial nominee in committee and on the Senate floor during the last session, including the many nominees that SALT and other groups opposed vigorously. And while many Republicans still cannot forgive Specter for voting against Supreme Court nominee Robert Bork in the 1980s, many of us remember the way in which Senator Specter went

after Anita Hill in the Thomas-Hill hearings of the early 1990s.

So given this scenario, what should be SALT's role with respect to judicial nominations in the second Bush administration? Clearly, we must continue to oppose judicial nominees, at whatever level, who have articulated extreme views on issues that are important to our members — civil rights (of people of color, women, gays and lesbians, people with disabilities, and so on), reproductive choice, labor rights, the environment, and more. If there is an extremist Supreme Court nominee, we will need to pull out all the stops in opposing him or her. We will need to encourage our friends on the Hill to hold the line and continue to use the filibuster (or threaten to do so) on the kinds of nominees against whom it was deployed in the just-ended congressional session. We need to explicate why a nominee's extreme views on what some would describe as esoteric issues should matter to regular citizens, and to the politicians who listen to them. We also need to work closely with allied organizations, such as the Alliance for Justice, to maximize the effectiveness of our oppositional voice.

Along those lines, we are exploring some exciting possibilities for a more thorough collaboration with the Alliance for Justice on judicial nominations. If our discussions bear fruit, we may have some good news on which to report in future issues of the *Equalizer*.

For now, we continue to solicit any and all members interested in issues of the makeup of the judiciary to contact either of the Judicial Nominations Committee co-chairs, Florence Roisman at Indiana University School of Law—Indianapolis (froisman@iupui.edu) or me at American University, Washington College of Law (rdiners@wcl.american.edu). Now is not a time for the faint of heart.

## Solomon Litigation Update

*Kent Greenfield, Boston College Law School*

As of this writing, there is no news on the litigation brought by SALT, FAIR (the Forum for Academic and Institutional Rights), and their co-plaintiffs challenging the Solomon Amendment. Oral argument was held in the Third Circuit on June 30, but no opinion has issued.

FAIR has grown to a membership of twenty-five; all of the members are either law schools or faculty bodies of law schools. Schools and law faculties are still encouraged to join.

Unfortunately, there has been a negative development on the legislative side. On October 28, 2004, President Bush signed the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 ("NDAA"). The new law amended the Solomon Amendment by adding language requiring schools to provide military recruiters access to campuses "in a manner equal in quality and scope to that provided other employers."

Congress' only apparent motivation for the amendment was the SALT/FAIR lawsuit. In the opinion of the district court issued in November 2003, Judge Lifland noted that the Solomon Amendment did not require "equal access" and criticized the military's unwritten policy of demanding "full access" to law school career office facilities and services. Reacting to this criticism, Representative Mike Rogers introduced a freestanding bill containing the "equal access" requirement. When that did not progress beyond a floor vote in the House, Congress enacted the "equal access" requirement through Section 552 of the NDAA.

As with all prior versions of the Solomon Amendment, there are no findings justifying Section 552. Section 552 certainly contains no findings, and the congressional record is devoid of anything that would pass as a finding. Indeed, Congress did not hold so much as a single hearing or debate to consider, weigh or discuss the necessity of the new law. The Armed Services Committee report on the NDAA merely stated, without further elaboration, that the intended effect of the provision was to provide military recruiters access to campuses and students that is equal in quality and scope to that provided other employers.

The only "evidence" offered in support of the amendment came in a letter to the House Armed Services Committee from David C. Chu, Under-Secretary of Defense for Personnel Readiness, who asserted that "some colleges and universities remain intransigent or outright opposed to compliance" with the Solomon Amendment's requirement that "military recruiters receive access to students." However, the "particularly egregious" examples of noncompliance cited in the letter were not denials of access but rather failures to stifle student protest. The letter contained no evidence or findings of any kind as to the need for equal access, only an assertion that "[u]nder normal circumstances, such intransigence and opposition to the established laws of the land would be unacceptable — but now, at a time when our nation is at war, this situation is intolerable."

The attorneys for SALT, FAIR, and their co-plaintiffs recently filed a supplemental brief in the Third Circuit arguing that the new statutory language does not materially change our constitutional arguments. The SALT/FAIR complaint had included challenges to the Defense Department practice of requiring equal access, so the effect of the new law simply turns our "as applied" challenge into a facial challenge. The new language does stand to have negative effects on other current anti-Solomon litigation that focuses on statutory rather than constitutional challenges.

Updates and litigation materials continue to be available at [www.solomonresponse.org](http://www.solomonresponse.org).

## “Class in the Classroom” a Classy Affair

Beto Juárez, St. Mary's University School of Law

On October 15th and 16th, 2004, the SALT Teaching Conference explored “Class in the Classroom” at the University of Nevada, Las Vegas, William S. Boyd School of Law.

Space limitations do not permit a complete listing of all of the presenters at the Conference. (The Conference program is available on the SALT website at [www.saltlaw.org](http://www.saltlaw.org).) Highlights of the plenary sessions and keynote addresses are briefly described below.

Fittingly, the authors of the casebook, *Cases & Materials on Social Justice: Professionals, Communities and Law* – John Calmore (North Carolina), Martha Mahoney (Miami), and Stephanie Wildman (Santa Clara) – opened the conference with a plenary examining the

varying conceptions of class. Past SALT President Wildman displayed a poster illustrating the vast disparities in income in the United States. The graphic reminded participants throughout the conference of the continuing importance of the conference theme.

Concurrent roundtables/workshops were held to permit discussions on how the issue of class can be raised in a wide range of subject areas: civil procedure, criminal law, torts, race and the law, elections and voting rights, land use, corporate responsibility, clinical courses, property, globalization and international law, constitutional law, and contracts. Workshops also addressed class and teaching outside the classroom, legal education, and law school accreditation.

The two keynote addresses were highlights of the conference. Professor Vijay Prashad, the Director of International Studies at Trinity College in

Connecticut, spoke on “Multiculturalism and Terrorism: A Breviary or Two.” Although he spoke immediately after lunch, Professor Prashad had no trouble engaging everyone’s attention, as he addressed his topic with great energy and humor. The following day, Professor Sandra Morgen, Director of the Center for the Study of Women in Society at the University of Oregon, met the challenge of a post-luncheon address equally well, as she reminded the legal academy of the importance of inter-disciplinary work in her discussion of “Unmasking Class in Social Policy: Welfare, Tax Cuts and Mounting Income Inequality.”

Building on the work of SALT’s 2002 Teaching Conference at Fordham Law School on “Teaching in Crisis, Teaching about Crisis: Law, Peace and Pedagogy,” a plenary session explored “The Punishment Industry: Prisoners and Prison in the U.S. and Iraq.” Thanks to the tireless work of

## Scenes from the Teaching Conference



SALT Board member Joan Howarth (UNLV), another plenary brought together Las Vegas activists and community organizers who discussed labor and election issues in the unique setting that is Las Vegas. The conference concluded with a plenary session on a topic of great importance to SALT members: "Affirmative Action after *Grutter*."

The path-breaking scholarship of Professors Elizabeth Iglesias (Miami) and Madeline Plascencia (Tulsa) was on display at a workshop at which they showed the latest version of their video documentary on the anti-globalization protests against the Free Trade Area of the Americas in Miami in 2003.

The administration, faculty, and staff of the UNLV William S. Boyd School of Law were superb hosts. UNLV's new building proved well-suited to house the more than 125 conference participants. Dean Richard J. Morgan hosted an evening reception in the Law School's courtyard that facilitated the continuation of the invigorating discussions generated during the conference.

The John Marshall Law School hosted the concluding reception. Conference participants were joined by Las Vegas-area alumni of the John Marshall Law School.

The Teaching Conference was an unqualified success. Las Vegas proved to be an ideal setting for raising issues of class, particularly as the participants went from the sumptuous hotels of the Las Vegas Strip to the sobering information presented at the conference on the continuing disparities in our society. The Teaching Conference Committee – Tayyab Mahmud (John Marshall), Joan Howarth (UNLV), Patricia Falk (Cleveland-Marshall), Emily Houh (Cincinnati), Alfreda Robinson (GWU), Nancy Ota (Albany), and Bob Seibel (CUNY) – worked very hard to ensure the success of this Teaching Conference. Stay tuned for details regarding the next SALT Teaching Conference in future issues of the *Equalizer*!

## Chicago Conference Highlights Need to Rethink the Bar Exam Process

*Eileen Kaufman, Touro Law School*

The long-awaited bar exam conference of the Joint Working Group (AALS, ABA, and the National Conference of Bar Examiners, with participation by the Conference of Chief Justices), was held in Chicago on October 1-2, 2004. The conference was entitled "*Examining the Legal Landscape of Legal Education and Bar Admissions*." The conference was over-enrolled, with an audience of bar examiners, state judges, bar association leaders, law teachers and deans contributing to an excellent and much-needed discussion of issues relating to how students should be assessed in law schools and upon entry to the profession.

The two issues that seemed to spark the most interest were the cut score debate and the development of alternative means of assessment. The SALT critique of the bar exam permeated the discussion with a surprising number of deans and judges outspoken in their criticism of the current bar exam and in their desire to experiment with alternative models. The conference reflected and generated a real enthusiasm for working collaboratively to rethink and reconfigure the bar examination process.

Although SALT was not a part of the planning process, the Joint Working Group gave SALT the opportunity to distribute a number of materials to all attendees: the Georgia State University Law Review Symposium issue on Alternatives to the Bar Exam; the SALT Statement on the Bar Exam (available on the Salt website); a description of the work of Marjorie Schultz and Sheldon Zedeck entitled "Identification and Development of Predictors for Successful Lawyering"; and an overview of "Potential Alternatives to the Existing Bar Exam" prepared by SALT member Andrea Curcio (also available on the SALT website). Additionally, Roberto Corrada, an active member of SALT's Bar Exam Committee, was a member of the Joint Working Group and helped ensure that the conference included a discussion of alternative means of assessment.

Judge Randy Shepard, Chief Justice of the Indiana Supreme Court, delivered the keynote address. Judge Shepard provided the audience with statistics tending to show the relative stability of passing rates on the bar exam. He also emphasized the importance of diversity within the profession, while noting that the legal profession had achieved more in this respect than other professions. Judge Shepard called the audience's attention to the growing body of literature regarding alternatives to the existing bar exam, which warrants "serious examination." He concluded his remarks with the hope that "some collection of actors" would decide to experiment with one or more of the proposed alternatives.

The first panel of speakers, including SALT's Paula C. Johnson, was asked to talk about the purpose of a bar exam. While the panelists seemed to agree that the central purpose of a bar exam is to protect the public, they expressed varying views regarding whether the exam needs to test a broad range of subjects. Some panelists and participating members of the audience stressed that an exam designed to test minimal competence must address a range of skills and values and not just knowledge. Ultimately, the discussion turned to the issue of the cut score debate and the fact that the New York Board of Law Examiners had just announced that it was increasing its passing score. To the extent that supporters of the increase in cut score suggest a link to lawyer competence, several attendees noted the absence of any empirical data to show that the current score was failing to protect the public. Judge Bundy Smith, of the New York Court of Appeals, said that he was aware of the concerns of those opposed to raising the score. He indicated, without further explanation, that the state would

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## Bar Exam:

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“work with the law schools to make sure that the maximum number of students passes the bar.”

The second panel included Alison Anderson (law professor from UCLA and SALT member), who provided an overview of the state of legal education today, and Erica Moeser (president of the National Conference of Bar Examiners), who provided an overview of the role of the board of bar examiners. Among the questions that Ms. Moeser raised was whether a high stakes test like the bar exam should be controlled by individual states.

The highlight of the conference for many attendees was the luncheon presentation by Dr. David Leach, entitled “Learning from Another Profession.” Through a highly entertaining and informative PowerPoint slide show, Dr. Leach described how the medical profession is redefining the roles of its educational institutions and licensing bodies. Among the points emphasized were: competence is a habit; competence develops along a continuum; competence is more than just knowledge and skill. Among the memorable quotes from his presentation were: “whatever we measure we tend to improve”; “values are enduring; rules are ephemeral; preserve values; modify rules; know the difference”; “to teach/learn is to create a space/community in which obedience to truth is practiced.” Dr. Leach provided an alternative vision of how to value and measure professional competence, and moved many participants to go beyond critiques of the use of bar exams and begin rethinking what we might mean by judging minimal competence to practice law.

The luncheon speech was followed by a presentation by Susan Case, a psychometrician, who explained examination design.

Through a series of graphic charts, she illustrated why increasing the number of questions increases the reliability of a test. After Dr. Case’s presentation, the audience divided into four small groups to engage in conversations about the cut score debate, the validity of the bar exam and its failure to measure a range of competencies, the extent to which the bar exam is driving a host of decisions with the law schools, and the need for experimentation with alternate bar exams. SALT members who participated in the breakout sessions reported that many of the participants – deans, law school faculty, judges, and some bar examiners – expressed many of the same concerns that SALT has highlighted in its own conferences on the bar examination as well as in its Statement on the Bar Exam.

Day Two began with a presentation by Diane Bosse, the chair of the New York State Board of Law Examiners. Ms. Bosse explained the calibration process used in New York to grade bar exams, and described the process for insuring the accuracy and fairness of scoring those exams that are near the pass/fail line.

The next session was entitled “Setting the Bar Exam Cut Score: Purposes and Concerns.” John Sebert, the Consultant on Legal Education to the ABA, began the session by informing the audience that the range of cut scores across the country is 118-145, with 134 as the median; that seven states have a cut score of 140 or more and seven states have a cut score of less than 130; and that the quality of law students has remained relatively stable over time. Marcia Mengel, the Director of Bar Admissions in Ohio, described the process that Ohio used to increase its cut score. The Office of Bar Examiners hired Stephen Klein, who conducted the same “standard setting” study that has been replicated in Minnesota, Florida and New York. Based on his recommendations, Ohio raised its score from 375 (adjusted score of 135) to 385 in

1996, and from 385 to 405 in 1997.

Dr. Michael Kane, the Director of Research at the National Conference of Bar Examiners, explained that standard setting represents a policy question, not a psychometric question. His presentation was quite helpful in distinguishing between determining the performance standard (the description of what it means to be minimally competent) and setting the passing score. He readily conceded that defining and developing the performance standard is enormously difficult.

SALT’s Carol Chomsky concluded the session with a four-part critical analysis of the way in which the cut score has been raised. First, she questioned the process whereby the state board of bar examiners typically appears to present the proposal to increase the cut score as a *fait accompli* and only then invites comments from other constituencies. Second, Professor Chomsky criticized the Klein methodology for not providing guidance to those who select performance standards as part of Dr. Klein’s study. States lavish great attention on calibrating the bar exam, she noted, as outlined in other presentations at the conference, but Klein’s study fails to make any effort to articulate or calibrate the performance standard he then uses to argue for an increase in the passing score. Professor Chomsky also pointed out the lack of data supporting the necessity for increasing the passing score. She alluded to a perception, not borne out by the data, that the quality of the law student pool is decreasing. Third, Professor Chomsky pointed to the likely racially disparate impact of an increase in the passing score, a point repeatedly made by many attendees, including SALT’s Paula Johnson, who linked the issue of affirmative action in admissions to the issue of the licensing of attorneys. Many in the audience called for the collection of data so that states would know and not need to speculate about the racial impact of any increase in the

passing score. Finally, Professor Chomsky described the ways in which the bar exam is driving decisions within law schools, particularly with respect to the curriculum, and impeding the schools' efforts to implement the recommendations of the MacCrate Report to ensure that legal education focuses on skills and values as well as doctrinal knowledge.

The cut score panel was followed by a session entitled "Law School Assessments: Purposes and Concerns," with addresses by Judge Sam Hanson (Minnesota Supreme Court), Dale Whitman (past-president of AALS), and Judith Wegner (Professor at the University of North Carolina). Professor Wegner expressed the view that a phased bar exam might be preferable to a single high-stakes exam, with Part I (consisting of multi-state multiple choice and essays) taken after the first or second year of law school and Part II (consisting of subject essays and a performance test) taken after graduation.

The subject of the final substantive panel of Day Two was alternatives to the bar exam. Speakers on this panel were Lawrence Grosberg (Professor at New York Law School and long-time SALT member), Sophie Sparrow (Professor at Franklin Pierce Law School and SALT member), John M. Law (Professor at University of Alberta), and Thomas A. Zlaket (former Chief Justice of the Arizona Supreme Court).

Professor Grosberg described the PSABE (Public Service Alternative Bar Exam), a joint proposal of the New York State Bar Association and the Association of the Bar of the City of New York, which originated with the work of Dean Kristin Booth Glen, who has been advocating an alternative bar exam for many years. The PSABE would place participating students (50 in the first year; 100 in the second year) in rotations within the New York court system where they would be evaluated using a variety of written and oral assessment

tools. Professor Grosberg explained that the PSABE is not meant to be an apprentice program or a training program but rather an alternative system of assessment that seeks to evaluate the broad range of skills that lawyers need. Professor Grosberg also talked about the use of a "standardized client," drawn on the "standardized patient" model used in medical schools, as an effective assessment tool.

Professor John Law described a number of post-graduate programs in different

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*"The SALT critique of the bar exam permeated the discussion with a surprising number of deans and judges outspoken in their criticism of the current bar exam and in their desire to experiment with alternative models."*

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provinces in Canada. Professor Law explained some of the deficiencies of Canada's apprenticeship model and the trend toward developing sophisticated professional legal training programs, using small groups or virtual law firms, interactive technology, and a large number

of evaluations rather than a single bar examination.

Judge Zlaket described yet another approach to licensing lawyers: the Community Legal Access Bar/Alt (CLABA). Participating students would work for one year under close supervision for a specially-funded legal services program, designed to deliver services to clients just above the poverty line and therefore ineligible for federally funded legal services. Students would rotate through a number of practice areas including family law, personal finance, personal and economic injury, criminal defense and small business concerns. CLABA was proposed by a group of law students and has the strong support of the Arizona Supreme Court and the state bar board of governors. Judge Zlaket reported that the remaining challenge is finding a funding source.

Professor Sparrow presented a fourth alternative to the bar exam, "The Webster Scholar Program," which enjoys the solid support of the New Hampshire Supreme Court (two members of which participated in the conference). The Webster Scholar Program is a collaborative effort among bench, bar and law school to better train students to be effective lawyers upon graduation. Re-imagining the bar exam constitutes one part of that effort. Drawing on Dr. Leach's presentation about licensing physicians, Professor Sparrow agreed that the quality of the representation is tied to the quality of the conversation, and that although some aspects of lawyer competency are hard to measure, the difficulty should not paralyze us. Unlike the alternatives described by the other panelists, this model takes place during law school, using doctrinal, clinical, externship and practice courses. The focus of this model is on "outcomes" — on assessing students' ability to demonstrate the knowledge, skills,

*Bar Exam continued on page 15*

## You're Invited: SALT and EJS to Co-Sponsor Reception and Roundtable at the AALS Annual Meeting

Nancy Cook, Roger Williams University,  
Ralph R. Papitto School of Law

On Wednesday, January 5, 2005, at the AALS Annual Meeting in San Francisco, SALT and the Equal Justice Society, EJS, will co-sponsor a welcoming reception and round table. The reception will begin at 6:00 p.m. in the Bay View Room at the Hotel Nikko, and the festivities are scheduled to end at 8:00 p.m. As in past years, SALT will use this opportunity to reach out to newer faculty in search of a family of colleagues who think about and act on matters of social justice and equality. This year, EJS joins with SALT to create a space at the Annual Meeting in which social activist lawyers and law teachers can come together.

The reception will begin with light (but classy) refreshments and a cash bar. (One free drink to any faculty member who has been teaching less than three years!) At 6:30 p.m., a panel of experienced law teachers will begin a discussion on the topic: "Strategic Scholarship: Opportunities and Obstacles for Progressive Faculty." Among those featured is Robert Westley, professor of law at Tulane Law School and long-time member of SALT, who will address the commonly-experienced conflict between institutional demands related to scholarship and personal activist agendas. In addition, participants from EJS will discuss strategies for the systematic creation of a well-funded, cohesive scholarship network to advance the work of activist academics and practitioners. An open discussion will focus on ways to balance the political and the practical in the real world of the academy.

## SALT Events during the 2005 AALS Annual Meeting

*Wednesday, January 5, 2005*

### Welcoming Reception and Roundtable

On January 5, 2005, from 6:00 p.m. to 8:00 p.m., in the Bay View Room at the Hotel Nikko, SALT and the Equal Justice Society will co-sponsor a welcoming reception and round table. Everyone is welcome, and we especially encourage you to come if you are a newer faculty member in search of a family of colleagues who think about and act on matters of social justice and equality. (One free drink to any faculty member who has been teaching less than three years!) At 6:30 p.m., a panel of experienced law teachers will begin a discussion on the topic: "Strategic Scholarship: Opportunities and Obstacles for Progressive Faculty." For more information, see the article to the left of this box.

*Friday, January 7, 2005*

### Robert Cover Study Group

The Robert Cover Study Group will meet on Friday, January 7, 2005, from 7:00 p.m. to 9:00 p.m., during the AALS Annual Meeting in San Francisco. The theme is "Civil Liberties Under Assault." Professors Jules Lobel and Natsu Saito will facilitate the discussion. The readings for the session are: (1) Chapter One of Jules Lobel, *Success Without Victory: Lost Legal Battles and the Long Road to Justice in America* (2003), and (2) Natsu Taylor Saito, *For "Our" Security: Who is an "American" and What is Protected by Enhanced Law Enforcement and Intelligence Powers?*, 23 Seattle J. Soc. Just. 23 (2003).

*Saturday, January 8, 2005*

### Annual Awards Dinner

The SALT Annual Awards Banquet will be held on January 8, 2005, at the Yank Sing Restaurant in San Francisco. The reception will begin at 6:00 p.m. and dinner will commence at 7:00 p.m. This year's deserving award recipients are Howard Glickstein, Dean Emeritus of Touro Law Center, who will receive the 2005 SALT Teaching Award, and Eva Paterson, noted civil rights attorney and director of the Equal Justice Society, who will receive the SALT Human Rights Award. For more information, see the article on page 11 of this issue of the *Equalizer*, and be sure to fill out and mail in the reservation form (on page 12), along with your payment.

*Sunday, January 9, 2005*

### Board Meeting

The SALT Board will meet from 7:00 a.m. to 11:00 a.m. on Sunday, January 9, 2005, at a location to be announced. All SALT members are welcome.

The Welcoming Reception has proven to be a comfortable forum in which newer teachers can meet and interact with SALT members. The Board therefore encourages SALT members to come and bring along

colleagues who have not yet been introduced to SALT. For more information, contact Nancy Cook at 401-254-4575 or [ncook@rwu.edu](mailto:ncook@rwu.edu).

## SALT Annual Awards Dinner to Honor Glickstein, Paterson

Margalynne Armstrong, Santa Clara University School of Law

The SALT Annual Awards Banquet — one of several events that SALT will sponsor during the AALS Annual Meeting — will be held on January 8, 2005, at the Yank Sing Restaurant in San Francisco. Professor Howard Glickstein, Dean Emeritus of Touro Law Center, will receive the 2005 SALT Teaching Award. Eva Paterson, noted civil rights attorney and director of the Equal Justice Society, will receive the SALT Human Rights Award.

Dean Glickstein served as Staff Attorney with the Department of Justice, Civil Rights Division, Appeals and Research Section, where he helped draft the Civil Rights Act of 1964 and the Voting Rights Act of 1965. He was General Counsel, and later Staff Director, of the U.S. Commission on Civil Rights. Dean Glickstein has also served as Director of the Notre Dame Center for Civil Rights, and as Professor and Director of the Equal Employment Litigation Clinic at Howard University School of Law. He was Dean of the University of Bridgeport School of Law from 1980 to 1985, and became dean of Touro Law School in 1986, where he served as dean for eighteen years. During Dean Glickstein's tenure, Touro Law School increased the minority student population from single digits to approximately a third of the class. Dean Glickstein is known as a remarkable teacher, passionate about his subject matter (civil rights) and devoted to his students.

Eva Paterson is the Executive Director, and a founder, of the Equal Justice Society, a national organization dedicated to changing the law through progressive legal theory, public policy and practice. Prior to

helping the Equal Justice Society, Ms. Paterson was an attorney at the Lawyers' Committee for Civil Rights for twenty-six years, serving as Executive Director for thirteen of those years. She has served as Vice President of the ACLU National Board, and chaired the boards of Equal Rights Advocates and the San Francisco Bar Association. She was a major participant in several landmark lawsuits in support of affirmative action, including the federal lawsuit challenging California's Proposition 209, the successful litigation against U.C. Berkeley's admissions policy limiting access to students of color, and an amicus brief in *Grutter v. Bollinger*. As a 20-year-old student leader at Northwestern University, Eva debated then-Vice President Spiro Agnew on live television, which ultimately resulted in her being the answer to a question on the game show "Jeopardy."

Please join SALT in honoring and celebrating Howard's and Eva's extraordinary careers. The Yank Sing Restaurant is located at One Rincon Center, 101 Spear St. (at Mission), San Francisco, CA 94105. The pre-dinner reception, sponsored by Golden Gate University School of Law, will begin at 6:00 p.m., with dinner beginning at 7:00 p.m.

To reserve your seat at the SALT Banquet, please mail your payment and the reservation form included on page 12 of this issue of the *Equalizer* to Professor Norman Stein, 12 Columbia Road, Portland, Maine 04103. The cost per banquet ticket is \$65 for orders postmarked by December 29, 2004. A limited number of tickets will be available at the door for \$75 each. Please consider supporting student scholarships to attend the SALT Cover, Grillo and Amaker Public Interest Retreats by sponsoring (or asking your institution to sponsor) a table for ten at \$1,000.

SALT also invites you or your institution to offer your congratulations and support to the honorees in the SALT dinner program by purchasing a program ad. You can provide camera-ready copy or simply send the requested text and we will design an ad for you. A full page ad (5 1/2" x 8 1/2") costs \$200; a half-page ad (5 1/2" x

### SALT Annual Awards Banquet

January 8, 2005

6 p.m. reception;

7 p.m. dinner

Yank Sing Restaurant,  
San Francisco

Honoring **Professor Howard Glickstein**, recipient of the 2005 SALT Teaching Award, and **Eva Paterson**, recipient of the SALT Human Rights Award

**Reservation form on page 12.**

4 1/4") is \$100. Please fax, mail, or e-mail your ad requests to Professor Paula C. Johnson. Professor Johnson's mailing address is Syracuse University College of Law, Syracuse, NY 13244. Send e-mail to: pcjohnso@law.syr.edu. Faxes should go to (315) 443-4141.

For more information regarding program ads, please call Professor Johnson at (315) 443-3364. For further information about the dinner, please contact Professor Margalynne Armstrong at (408) 554-4778.

# Society of American Law Teachers Annual Dinner Reservation Form

Saturday, January 8, 2005

6 p.m. reception; 7 p.m. dinner

Yank Sing Restaurant

One Rincon Center, 101 Spear Street, San Francisco, CA 94105

2005 SALT Teaching Award Honoree: Howard Glickstein, Dean Emeritus, Touro Law Center

2005 SALT Human Rights Award Honoree: Eva Jefferson Paterson, Executive Director, Equal Justice Society

Name \_\_\_\_\_

Telephone \_\_\_\_\_

E-mail \_\_\_\_\_

Mailing address for tickets \_\_\_\_\_  
\_\_\_\_\_

Number in party \_\_\_\_ @ \$65 each (postmarked by Dec. 29, 2004) Total: \$ \_\_\_\_\_

Table for 10 \_\_\_\_ (\$1,000, a portion of which is a tax-deductible donation  
to SALT Public Interest Retreat Student Scholarships) Total: \$ \_\_\_\_\_

*A limited number of tickets will be available for purchase at the door, at a price of \$75 each.*

Please make checks payable to "Society of American Law Teachers."

Send this form and your payment to **Prof. Norm Stein, 12 Columbia Road, Portland, Maine 04103.**

Questions? Contact Margalynne Armstrong, marmstrong@scu.edu, (408) 554-4778

## Save The Date:

### SALT's Public Interest Retreats

*February 25 to February 27, 2005*

#### Norman Amaker Retreat

The Fourth Annual Norman Amaker Retreat will take place on February 25-27, 2005. The theme of the retreat, planned by Indiana University-Indianapolis, is "Human Rights in the 21st Century." Please join law students from throughout the country and take a few days away from the frantic pace and high pressure of law school for a great retreat. In addition to relaxing, hiking, and generally enjoying the great outdoors, we will forge a coalition of students, professors and practitioners to support social justice-oriented law students pursuing careers in the public interest. For more information, contact Melody Goldberg at [amaker@iupui.edu](mailto:amaker@iupui.edu), or visit [indylaw.indiana.edu/clinics/amaker/retreat.htm](http://indylaw.indiana.edu/clinics/amaker/retreat.htm).

*March 4 to March 6, 2005*

#### Robert M. Cover Retreat

The annual Robert M. Cover Public Interest Retreat will be held at the Sargent Center in Peterborough, New Hampshire, on March 4-6, 2005. This year's host is Touro College Law Center of Huntington, New York. The theme is "How to Make the Interest Public." Planned workshops and panel discussions include successful grant and fellowship writing, effective lobbying, and community outreach. The goal is to provide attendees with the skills and techniques to participate in grassroots organizing within their community. The retreat is always informative, invigorating, inspiring, and lots of fun. For further information, contact [tourolawcover@yahoo.com](mailto:tourolawcover@yahoo.com).

*March 12 to March 13, 2005*

#### Trina Grillo Retreat

The Seventh Annual Trina Grillo Public Interest and Social Justice Law Retreat will take place in San Jose, California, on March 13 and 14, 2005. This year's theme is "Social Lawyering: Still Rebellious?" The retreat will revisit the idea of rebellious lawyering in the context of current issues in social justice practice. Gerald López (NYU), author of "*Rebellious Lawyering: One Chicano's Vision of Progressive Law Practice*," will deliver the Ralph Abascal Memorial Lecture. Sessions will include discussions about how things look from the trenches, as social justice practitioners describe their practice approaches; how to choose what kind of lawyer you want to be; and how to integrate public interest and social justice into the law school experience. Like all of SALT's Public Interest Retreats, the Grillo Retreat is exciting, energizing, and always great fun. For further information, contact Colleen Hudgens, the Program Coordinator of Santa Clara University School of Law's Center for Social Justice and Public Service, or visit [www.scu.edu/law/socialjustice](http://www.scu.edu/law/socialjustice).

## Salary Survey: Now Is the Time

*Aviam Soifer, University of Hawai'i, William S. Richardson School of Law*

After many years of extraordinary effort and noteworthy success by Dean Howard Glickstein (Touro), the SALT Salary Survey torch was passed this year to Dean Avi Soifer at the University of Hawai'i. Avi reports that he has received 68 responses already, with follow-up efforts currently underway.

Should you have any reason at all to suspect that administrators at your school may not have responded yet, please use whatever effective means you choose to urge them to do so. Our annual survey offers important information, and it often proves quite useful as well as informative.

If you have questions or need more or different information to help us get responses, please contact Avi at: [soifer@hawaii.edu](mailto:soifer@hawaii.edu) or by phone at (808) 956-6363 (five hours earlier than EST). Thank you very much!

## Affirmative Action:

▼ continued from page 3

harm than to help the ability of Black law school graduates to gain entry to the bar. Sander further predicts that the elimination of affirmative action would result in a net increase in the number of Black lawyers gaining entry to the bar each year. The forthcoming response to Sander's article, entitled "The Real Impact of Eliminating Affirmative Action in American Law Schools: An Empirical Critique of Richard Sander's *Stanford Law Review* Study," is co-authored by David Chambers (Michigan), Timothy Clydesdale (The College of New Jersey), Richard Lempert (Michigan), and — once again, the tireless — Bill Kidder (Equal Justice Society), and will appear in the May 2005 issue of the *Stanford Law Review*. The critique points out methodological and substantive flaws in Sander's analysis. The co-authors argue, for example, that:

- Sander seriously underestimates the harm of ending affirmative action, which he claims would curtail African American enrollments by only 14%. The authors say that, based on Sander's model and the latest national data, ending affirmative action would slash African American enrollments by at least one-quarter. In fact, a decline of about 40%-45% is more realistic because fewer would apply, and among those accepted, fewer would enroll.

- Most of the African-Americans now serving as federal judges and law professors attended a small number of elite law schools. As even Sander concedes, those schools would, in the absence of affirmative action to level the playing field, enroll 1%-2% African-Americans. In *Grutter*, the Supreme Court rejected such re-segregation, declaring, "[I]t is necessary that the path to leadership be visibly open to

talented and qualified individuals of every race and ethnicity."

- Sander's study is premised on the notion that there is a "powerful" correlation between law students' GPA and LSAT scores, on the one hand, and how they perform on the bar exam, on the other. However, for the National Bar Passage database Sander employs, LSAT scores and undergraduate grades only explain 9% of the variance in bar exam results.

- Sander's rosy projections are based on the false assumption that ending affirmative action would eliminate all Black-White LSAT/GPA disparities within law schools. Most reputable scholars believe that scenario is virtually impossible unless schools intentionally discriminate *against* African-Americans.

- Sander blames almost all performance differences in grades on affirmative action, but Professor Clydesdale and others find that the campus climate in law school is a key factor, one that would likely worsen were affirmative action discontinued.

- Sander's "mismatch" hypothesis is largely refuted by his own Bar Passage data. Among African-Americans with the same index scores, attending higher-ranked schools consistently improves law school graduation and bar results. Contrary to Sander's thesis, the evidence shows that ending affirmative action would damage African-American graduation rates.

The critique concludes that the elimination of affirmative action programs in law schools would likely result in a 25%-30% *decline* in the number of Black lawyers entering the bar each year, *not* the 9% increase that Sander projects. A full menu of political and empirical "Response to Sander" talking points will be available from the African American Policy Forum. The AAPF can be contacted at: [aapf@law.columbia.edu](mailto:aapf@law.columbia.edu) and/or (212) 854-8041. The AAPF press

spokespeople on the "Response to Sander" Report are Professors Cheryl Harris and Jerry Kang of UCLA Law School. Finally, a draft of the critique to Sander can be found on the SALT website at [http://www.saltlaw.org/Sander\\_public\\_version\\_3.doc](http://www.saltlaw.org/Sander_public_version_3.doc).

In addition to the discrete projects described above, the Affirmative Action Committee continues its work of responding to ongoing and organized conservative efforts to bring post-*Grutter* challenges to affirmative action programs nationwide, through, for example, their well-coordinated and onerous FOIA demands on state schools regarding those schools' admissions practices. The Committee continues to urge schools responding to such requests to act boldly and assertively in defense of their affirmative action policies, and is tracking and collecting responses to the FOIA requests.

Finally, the Committee wants to act as a clearinghouse for information about affirmative action in higher education, so that we can better educate ourselves, the SALT membership, and the public more comprehensively on post-*Grutter* affirmative action issues — such as the use of race in the allocation of financial aid and academic support services. If any of you has information relating to those or other affirmative action-related issues and development, or if you simply would like to get involved in the important work of the Affirmative Action Committee, please contact one of the Committee members: Margaret Montoya (Chair — New Mexico), Alicia Alvarez (DePaul), Margaret Martin Barry (Catholic), Emily Houh (Cincinnati), and Bob Seibel (CUNY).

**Bar Exam:**▼ *continued from page 9*

obligations and behavior required of lawyers. Students create a portfolio of multimedia materials, self-assess their work, and defend the portfolio to a team of evaluators, consisting of members of the bench, bar and faculty. Students are assessed three times during law school and spend two days in simulations at the end of their study.

The final panel of the day called for reflections and reactions from Bucky Askew (Director of the Office of Bar Admissions in Georgia), Richard Morgan (Dean at University of Nevada, Las Vegas, School of Law), Marva Jones Brooks (chair-elect of the National Conference of Bar Examiners), Judge Randy Shepard (Chief Judge of the Indiana Supreme Court) and Judge

Gerald VandeWalle (Chief Justice of the North Dakota Supreme Court). Several panelists commented on how much we could learn by considering the holistic approach described by Dr. Leach. Panelists also emphasized several points made by Paula Johnson, including her statement that we should think more about depth than breadth and her reminder that we need not only to protect the public but also to serve the community. There was virtually unanimous agreement on the need for the bench, bar examiners, and academics to work collaboratively on improving the way we measure lawyer competency.

The conference was very successful in beginning a dialogue among the participants regarding a range of issues presented by the current bar examination. There was considerable enthusiasm expressed by judges, academics and some bar examiners

for investigating and experimenting with alternative models; there were also many public commitments to re-think what the bar examination tests. Most encouraging was the consensus on the need for a continuing open conversation among bar examiners, the bench and the academy about the kinds of collaborative projects ongoing in Arizona and New Hampshire, where different constituencies are working together to craft a better bar exam.

SALT members interested in working on bar exam issues should contact Eileen Kaufman, chair of SALT's Committee on the Bar Exam (eileenk@tourolaw.edu).

## Society of American Law Teachers

### *Membership Application (or renewal)*

- Enroll/renew me as a Regular Member. I enclose \$60 (\$40 for those earning less than \$50,000 per year).
- Enroll/renew me as a Contributing Member. I enclose \$120.
- Enroll/renew me as a Sustaining Member. I enclose \$360.
- I enclose \_\_\_\_\_ (\$120, \$180, \$240, or \$300) to prepay my dues for \_\_\_\_\_ years (\$60 each year).
- Enroll me as a Lifetime Member. I enclose \$900.
- I am contributing \$ \_\_\_\_\_ to the Stuart and Ellen Filler Fund to support public interest internships.
- I am contributing \$ \_\_\_\_\_ to the Norman Dorsen Fund to support the work of the SALT Board.
- I am contributing \$ \_\_\_\_\_ as an additional contribution to support SALT's promotion of affirmative action.

Name \_\_\_\_\_ School \_\_\_\_\_

Address \_\_\_\_\_ E-mail \_\_\_\_\_

\_\_\_\_\_ ZIP Code \_\_\_\_\_

**Make checks payable to:** Society of American Law Teachers

**Mail to:** Professor David F. Chavkin  
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