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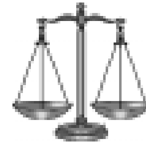

Issue 62, No. 1 A Newsletter from THE LAW FIRM OF ALTON C. TODD Spring 2016

Lack of Inclusion Devalues Diversity

Nearing the final days of his education at the law and business schools he loves at Emory University, Seth Park, while on a mid-semester module, was alerted to a sensitive situation played out in social media that both surprised and infuriated him. The news was a sadly disturbing reminder that racial issues occur in the most liberal of places.

A white Emory University law student had posted racially insensitive remarks about the Black Lives Matter movement and remarked to a fellow black student that she was uncomfortable sitting near her in the classroom. The black student remained silent, but her silence soon became overwhelming. Remembering the words of Dr. Martin Luther King, Jr. that "our lives begin to end the day we stay silent about things that matter," she invited the white student to express her views in person: "I wanted to talk to her face to face, student to student, intellectual to intellectual." The black student had not yet read the derogatory comments that had been circulating on Facebook, but then she did, and about 30 minutes before the beginning of class asked if she could have a word with the commentator. The exchange ended after the white student, who said they could discuss this further in the Dean's office, became outraged when the black student agreed, adding that she felt "unsafe with her in the classroom because white people are more likely to commit school shootings." Now feeling marginalized, as never before, the white student left the classroom screaming and crying and returned with someone from the administration.

The black student, in an open letter to black law students, noted that her immediate feeling of triumph was very short lived. The other girl's tears garnered sympathy, and she became the victim. Concluding her letter, the black writer recognized that Emory University "has taken great pride in its commitment to diversity. In fact, my decision to attend was premised on the appearance of strong support from the faculty in that regard. But, I have learned a significant lesson on how diversity often falls short of inclusion."

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Jeff Todd Wins Verdict for Assault Victim

Jury Finds For Plaintiff in Case Against Former Software CEO

In a sexual assault case, supported by hard, compelling evidence, Attorney Jeff Todd recovered a $750,000 verdict for Keri Hill, plaintiff, against defendants Henri Morris and Solid Software Solutions, Inc., d/b/a Edible Software. The jury returned its verdict ($791,335.61 with prejudgment interest and simple interest on past damages) in open court in Harris County on February 16.

This is the first of four civil cases filed against the 68-year old CEO of the tech company, Edible Software. Todd is also representing the three other victims.

The case of Morris, currently in federal prison for drugging and sexually assaulting female employees, following results of a criminal case previously filed, is unique in that he has pleaded guilty twice in an attempt to avoid a potential 50-year prison sentence without parole. In December 2014, he arranged a plea deal with federal prosecutors, admitting to his crimes but contingent on serving no more than a year behind bars. After hearing testimonies from Morris' victims, a federal district judge threw out the agreement, sending the case to trial. Morris again pleaded guilty after his attorneys negotiated a plea deal that prosecutors would drop most of the charges if he admitted again to drugging and assaulting only one employee. The maximum sentence allowed under this plea deal was 10 years, and that is what he got.

The separate instances and nauseating details of Morris' crimes against Hill and other women follow a strikingly similar scenario. Shortly after being hired at Edible Software,

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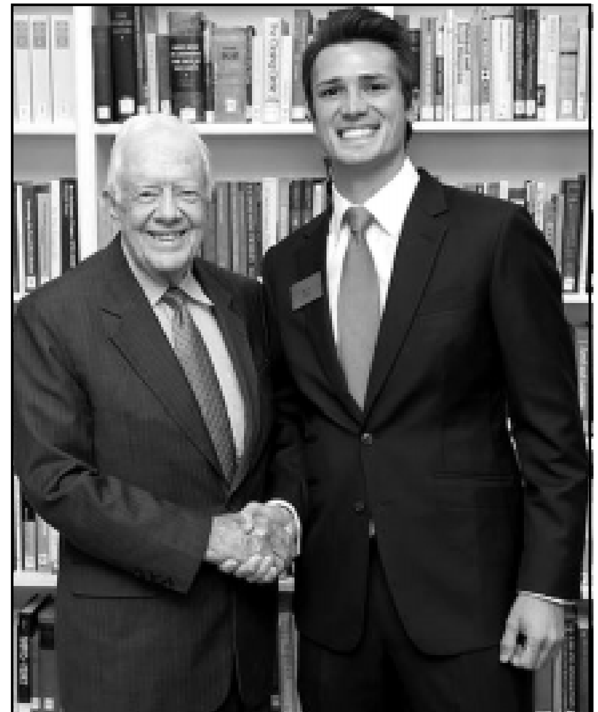
A Lasting Memory for Seth Park

President Carter Addresses Emory Students

On January 28, Seth Park, son of Nari and Alton Todd, as president of the Student Bar Association at Emory University, experienced a historic moment and the high honor of introducing President Jimmy Carter who spoke at Emory's School of Law's annual International Student Forum. Seth was similarly moved when Carter, a Distinguished Professor at Emory, autographed for Seth a copy of his latest book, signing it "To President Park."

On May 9, Seth will receive the degrees of Doctor of Law at the Emory Law School commencement ceremony and the Master of Business Administration from the Goizueta Business School.



Former U.S. President Jimmy Carter and Seth Park, graduating law student

Lucille Todd, with documented passage of driver's test

Go, Girl!

Experienced Driver, 96 Passes Test with Ease

On January 15, just one week shy of her 96th birthday, Lucille Todd, mother of Alton C. Todd passed her driver's test. Although an arthritic right knee has recently limited her Avalon excursions, Lucille, an excellent driver, has motored many miles in her lifetime, driving not too many years ago to Branson in a rental car, and it was not a compact. Renewing her license, even if it meant taking another test, was, for Lucille, a matter of habit and pride.

Footnote: On January 16, Lucille's older sister Nola, featured in the last issue of *The Altlaw*, made her transition at the age of 100 years and 1 month.

More Jurisdictions To Use Uniform Bar Exam in July

The movement toward the Uniform Bar Exam gained momentum early this year when the American Bar Association's policy-making body approved a resolution urging all states and jurisdictions to expeditiously adopt the UBE, which allows applicants to transfer their scores to other jurisdictions that also offer the test. The Washington D.C. Court of Appeals confirmed that it would begin using the exam this July. The New York Bar Exam will be replaced by the UBE in July, and Vermont's Board of Bar Examiners also expects to adopt the UBE.

The UBE, composed of the Multistate Essay Examination, two Multistate Performance Tests tasks and the Multistate Bar Examination, is uniformly administered, graded and scored by user jurisdictions.

The ABA, in February, also approved a second resolution, asking bar admission authorities to consider the impact on minority applicants in deciding whether to adopt the exam in their jurisdiction.

Legacy of Brilliant Jurist Overshadowed By Political Rancor, Rampant Disrespect

The untimely death of U.S. Supreme Court Justice Antonin Scalia on January 13 created an immediate and shameful spectacle of disrespect and disgraceful lack of common decency exhibited by embarrassing national figures. Even before Scalia's body arrived back in Washington from Texas, GOP candidates for president were inappropriately proclaiming that President Obama better not think of exercising his constitutional right to appoint a new justice, one even barking, "Delay! Delay!" Soon, Republican senators chimed in. Their rush to politicize the personal was an ugly display of disrespect to an extraordinary public servant and to his family during their bereavement.

Reflecting on the political enmity that overshadowed the legacy of a giant of American jurisprudence, identifying more as a polar opposite than a kindred spirit, Alton C. Todd observed, "In thinking about how much I disagreed with Justice Scalia on just about everything, I also recalled his very impressive story, which is consistent with the American dream. Most importantly, regardless of how much I disagreed with him, I *respected* him. The Republican debates have demonstrated just how far we have veered from the principle of disagreeing while being respectful."

The jovial Justice Scalia brought intellect and wit and energy and passion to the bench. A certain and clever writing style, evidencing a noted flair for language in colorful turns of phrases and sometimes acerbic and dismissive of opponents, characterized this leading instigator of laughter in the court's oral arguments. Fearless and principled, he was one of the nation's foremost legal scholars.

The partisan battle that began within hours of Scalia's death, focusing on the choice of his successor, defies constitutional clarity. Republicans who argue that people should have a voice in the debate over the vacancy are reminded that people already had a choice when they re-elected Obama. Ironically, Justice Scalia, a strong advocate of originalism, the type of constitutional interpretation that judges should look to the meaning of the words of the Constitution at the time they were written, would approve the intent of Article II, Section 2 of the Constitution, clearly giving the president the right to nominate and, with the advice and consent of the Senate, to appoint judges of the Supreme Court. Ignoring the rule of law that Scalia so passionately defended does another disservice to his memory.

Many columnists, editors and pundits have offered their views on the type of candidate Obama should appoint. Perhaps the President would be well served to consider Scalia's own plea to broaden the court's profile. Criticizing the lack of diversity of the court, in a passage in his dissent from the court's decision establishing a constitutional right to same-sex marriage, he did not exclude himself. The court, as he noted, consists of nine justices, all successful lawyers who studied at Harvard or Yale Law School. It has no Protestant member, eight of the current court grew up in east and west-coast states, and all but one are former federal appeals court judges.

"Out Of The Mouth Of Babes"

What do lawyers do when they don't believe in a case? So inquired a 7-year-old in New Orleans of ABA President Paulette Brown, who works with Boys & Girls Clubs all over the United States.

When the question was put to Alton C. Todd, he offered the following pithy response:

I have a choice who I represent. If I do not believe in a case, I do not take it.

The Altlaw ™

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Extremist Leading Candidate For Texas Board of Education

Six years ago, 68-year old retired teacher Mary Lou Brunner, complained before the Texas State Board of Education that the state's curriculum was being controlled by Middle Easterners who were buying the textbooks. Then, a private citizen, today, Bruner is running for a position on that board. Bruner received 48 percent of the vote in a three-person GOP primary in Smith County on March 1. She has a good shot of winning in a May runoff election against Kevin Ellis, chiropractor, and city school board president, who earned only 31 percent of the primary vote.

Should you choose to vote in the Republican runoff, the ideas and ideals of the candidates should be carefully considered in view of the considerable influence that the state's school board wields over Texas curricula. Because the board has the power to decide curriculum guidelines and is the ultimate authority on contents of textbooks, the election of an extremist is unbelievably alarming, especially considering the already low academic standards in Texas. In Education Week's 2016 Quality Report, overall, Texas got a C- and the same grade for student achievement in grades K-12. On school finance, it got a D.

Seeing the United States falling behind other developed nations in recent decades, state education chiefs and governors in 48 states united in a bipartisan effort to develop the Common Core, a set of clear college and career-ready standards for kindergarten through 12th grade in the English language, arts, literacy and mathematics. All but four states—-and Texas is one of the four—- have adopted Common Core, and the results have been successful. In Texas, however, it is considered politically perilous for Republicans to support Common Core.

The social media posts expressing, seemingly with pride, the extreme views of Mary Lou Bruner reflect a philosophy of education about as far removed from Common Core as it is possible to get. In addition to her aversion to Muslims—"the United States should ban Islam and stop all immigrants from Muslim Countries," this veteran teacher, who wants to promote "conservative curriculum standards aligned with Texas values," has publicized the following beliefs:

- School shootings are the product of kids learning evolution.
- Baby dinosaurs lived on Noah's Ark.
- Democrats had JFK killed because socialists and communists didn't want a conservative president.
- Sex education books are the reason kids are having sex.
- The climate change HOAX was Karl Marx's idea.
- President Obama used to be a gay prostitute and that is how he paid for his drugs.

Christmas Day in Rio: Alton, Nari and Kamilah Todd and Seth Park at site of Cristo Redentor, Rio de Janeiro, Brazil

Kamilah and Alton Todd in Valparaiso, Chile on December 14: Feliz Navidad

Todds Celebrate Christmas in Rio de Janeiro

With arms wide open, the statue of Christ the Redeemer, Brazil's ultimate religious symbol, gazes out over the sprawling city of Rio de Janeiro. Here, Alton and Nari Todd and Kamilah and Seth were blessed to experience an unprecedented and memorable Christmas Day. The opportunity to view this gorgeous statue and the stunning view from atop Corcovado inspires a depth of reverence difficult to describe.

The Todds' tropical holiday vacation began in Santiago, from where they planned to fly to Easter Island, but this most anticipated stop never happened due to an airline strike. That disappointment was later downgraded when Alton, victim of an unnerving mugging incident in Salvador was robbed of a prized gold chain that he had worn for more than 30 years. Colorful highlights in this otherwise joyous holiday will be long remembered, especially the spectacle of fireworks and lights that marks the launching of Rio's giant floating Christmas tree, which is the largest in the world.

ALTruism

Experience is a hard teacher because the test comes before the lesson.

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Lack of Inclusion

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As president of Emory's Student Bar Association, Seth, along with other members of the SBA, decided to frame an open letter to Emory Law, representative of the views of its constituents, the student body. A portion of that letter follows:

"The Student Bar Association is proud to support the efforts of students who advocate for the rights of others. When any member of our student body feels that his or her rights are threatened, the integrity of our community is compromised. It is unfortunate that discrimination is something even an intelligent, educated community has to actively oppose, but we applaud those who have confronted these issues in a constructive manner.

Conflicting viewpoints are an essential element in the legal profession. Intellectual growth occurs when we challenge one another through expressive dialogue. We are all here to learn, in and out of the classroom. The SBA refuses to tolerate bigotry anywhere—not in our hallways, not in our communal spaces, not in our classrooms and not via social media. We treasure human diversity, reflected in differences in race, sex, age, ethnicity, national origin, mental and physical health and ability, sexual orientation, gender identity, marital status, family structure, socioeconomic status, educational status and political and spiritual perspective."

As active dialogue continues among student and alumni leaders, faculty and administrators, the Student Bar Association and the Black Law Student Association, Emory Law is taking measures to discuss all that can be done to promote inclusivity.

Jury Finds For Plaintiff

(Continued from Page 1)

each would be invited to accompany the highly successful, married CEO on a business trip, often to places like New York City or New Orleans. The trips went far beyond typical expense-account affairs. One woman remembers meeting in the concierge lounge of a Manhattan hotel and little else after Morris returned from a beverage cart with three to-go cups of vodka and cranberry juice, one marked with his name, one with hers, and the third read "spare." The rest of the night would be a blur, the amnesia victims awaking disoriented, unclothed and bruised.

After realizing what had potentially happened to her, Ms. Hill didn't bother reporting the behavior to the Human Resources department, which was overseen by the perpetrator's son. Instead, she went to the FBI. Agents convinced her to agree to a final trip, although Morris would be arrested at Bush International Airport before the two boarded the plane. Authorities found in his luggage date rape drugs and later photos of nude, incapacitated women on his secure thumb drives.

The FBI investigation gained traction after its Violent Crime Task Force found eight women who told of similar encounters with Morris, tearful tales of bizarre and disturbing trips by women who desperately needed the jobs but would be forced to leave the company.

Now that Morris was stuck in another awkward legal position of defending himself and his company against the civil lawsuit filed by Hill and the other young woman he had already admitted to drugging and assaulting in federal criminal court, his lawyers filed a motion to dismiss the civil suit, maintaining that Morris' actions constituted *workplace sexual harassment* rather than *assault.* In a passionately worded counterargument, Todd contended, "Morris didn't discriminate against the assault victims, whether in our out of the workplace; rather he attacked and violated them! He invited or induced the deferential and trusting assault victims across state lines, where in remote cities he mendaciously drugged each and all of them into intentional sensibility… sexually assaulting them while they were completely inert and vulnerable." Letting Morris off the hook for his crimes would be like granting a surgeon leniency for a botched operation just because the patient was sedated, he argued.

The distinction between sexual *assault* and sexual *harassment* is an important one. Under the 2010 state Supreme Court's ruling in *Waffle House v. Williams,* sexual harassment suits are awarded only relatively low settlements, as opposed to the larger sums a victim can win under an assault claim in civil court. Todd wrote in court filings that the "effort to characterize the plaintiff's claims as workplace complaints is frankly both cynical and delusional…their mischaracterization of her claims as based solely upon 'unwelcome sexual harassment' would be laughable, were it not so offensive."

CLOSING STATEMENT

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Thank you for the opportunity to represent your interest and for recommending*

THE LAW FIRM OF ALTON C. TODD