

Society of American Law Teachers SALT

Public Advocacy Center, Room 223

Touro Law Center

225 Eastview Drive, Central Islip NY 11722

631 650 2310

www.saltlaw.org

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April 29, 2010

Senator Ann Duplessis, Chairman

Louisiana State Senate

6600 Plaza Dr.

Suite 211A

New Orleans, LA 70127

Dear Senator Duplessis :

Since 1974, the Society of American Law Teachers (SALT) has been an independent organization of law teachers, deans, law librarians, and legal education professionals working to make the profession more inclusive, to enhance the quality of legal education, and to extend the power of legal representation to under-represented individuals and communities. We write to you on behalf of SALT to express SALT's opposition to SB 549, which undermines academic freedom and interferes with an essential public service provided by the clinical programs at the four Louisiana law schools. SB 549 threatens to prevent law school clinics from meeting their professional obligation to expand access to justice for their clients by seriously limiting the types of representation they can undertake.

SALT is particularly concerned with Section 2 of SB 549. Section 2 of the bill prohibits law clinics from filing any action against a government agency or filing a suit for monetary damages against any individual or business. It also prohibits law clinics from raising challenges to the Louisiana constitution.

These prohibitions would eliminate law student representation of clients in most civil law actions. Should this bill become law, future Louisiana lawyers would suffer from the lack of litigation skills training necessary to the effective practice of law, and clients would suffer from not having access to lawyers to take their cases through the justice system using the most relevant legal theories available. Legal representation without the ability to pursue applicable claims does not constitute meaningful representation for either the students trying to learn or the clients which they serve.

Furthermore, our system of checks and balances, a necessary component of good government, values the ability of lawyers to challenge governmental action – this right is protected in the federal and Louisiana constitutions and statutes. Law clinic clients should be guaranteed the same constitutional and statutory rights as everyone else in Louisiana.

SALT is also concerned that the bill provides oversight of law clinic activities by the House and Senate Committees on Commerce, Consumer Protection, and International Affairs. Legislative oversight of lawyer activities is an unacceptable government intrusion into the necessary and confidential lawyer-client relationship and an expansion of government regulation of the rights of private citizens.

As legal educators charged with responsibility for training those who will enter the legal profession, we strive to meet the goals set out in the American Bar Association Council on Legal Education and Admissions to the Bar Standards and Interpretations for Approval of Law Schools. Under these standards, law schools must ensure that those who graduate “understand their ethical responsibilities as representatives of clients, officers of the court and public citizens responsible for the quality and availability of justice,” and that they “understand the law as a public profession calling for performance of pro bono legal services” (Preamble to the 2009-2010 Standards and Rules of Procedure for Approval of Law Schools). Clinics in law schools serve a singularly important function as law schools strive to meet this obligation to educate future lawyers and prepare them to enter the legal profession with a full understanding of their ethical obligations.

A law student’s clinic experience is often the closest thing to an apprenticeship that law schools can offer their students. Unlike medical students, law students have no institutional structure providing the equivalent of the two-year residency offered graduates of medical schools. What we can and do offer are courses where students, supervised by clinical faculty, provide legal representation to clients who would otherwise be unable to assert a claim or defend against an infringement of their rights in a variety of legal contexts. Often it is in a clinic that students have their first and only contact with real clients before their graduation. The clinic is the place where they learn through practical experience the ethical duties of competence, diligence, and the obligation to serve people and communities who cannot afford private counsel.

All four Louisiana law schools have strong clinical programs that provide students with the opportunity to practice law and serve Louisiana citizens and communities. Working with clients, students learn the importance of the principle of equal justice under the law. Live client clinics supply the assistance that individuals or groups need to vindicate their rights and have their day in court. Students learn about the value of the rule of law and the judicial process in a civil society, which allow citizens to speak for themselves and others like them whose rights have been infringed by more powerful individuals or institutions. It should not matter whether it is a battered woman seeking an order of protection from her abuser, an indigent defendant in a criminal case, or citizen groups seeking the enforcement of consumer protection or environmental laws.

The importance of the ethical principle at the heart of the legal profession, the duty to represent those who otherwise would not have access to justice, is a core value that students are taught in the classroom, but often experience and internalize only in their representation of clients in a clinic. Another important ethical duty central to the legal profession is the attorney’s loyalty to clients, which includes the requirement that the attorney will exercise independent, professional judgment without fear of government influence or retribution. This principle is a core component of our legal system and a value law schools should instill in their students.

The professionals to whom the four Louisiana law schools have entrusted the education of future lawyers have designed a curriculum to meet the needs of the legal profession and, as part of that curriculum, have created clinics to provide students with the experience, skills and understanding of professional ethics that they will need as attorneys. Law schools should be free to provide those educational experiences to their students in a manner that serves the need for access to justice in Louisiana and best teaches students the core skills and values necessary to be effective lawyers in Louisiana and the world.

SALT supports the clinical legal education programs at Louisiana State, Tulane, Southern, and Loyola Universities. These programs are educating the next generation of lawyers in Louisiana and beyond. These programs are also teaching future lawyers about one of the highest ideals of the legal profession – the importance of increasing access to justice for all people regardless of income or social status. SALT believes that the passage of SB 549 would seriously undermine the ability of law clinics to adequately and fully represent clients and to bring access to justice to the poor, and that the bill would be a disservice not only to law students but also to the residents of the State of Louisiana.

Sincerely,



Raquel Aldana
Co-President



Steven Bender
Co-President