New FBA Members Welcome

Membership Eligibility. FBA membership is open to any person admitted to the practice of law before a federal court or a court of record in any of the several states, commonwealths, territories, or possessions of the United States or in the District of Columbia, provided you are or have been an officer or employee of the United States or the District of Columbia, or you have a substantial interest or participate in the area of federal law. Foreign Associate Status is open to any person admitted to practice law before a court or administrative tribunal of a country other than the United States of America. Law Student Associate Status is open to any law student enrolled at an accredited law school. If you wish to join, please visit www.fedbar.org and click on the "Join the FBA" link.

Monthly FBA Luncheon

Please join us for our monthly FBA luncheons on the third Thursday of each month at noon (except in July and August). As usual, the lunch will take place at FERNANDO'S HIDEAWAY, 824 SW First Avenue in downtown Portland, at noon. Lunch is $18.00 for members, $20.00 for non-members. You may bring your check to the luncheon made payable to the FBA. As always, it is VERY IMPORTANT that you RSVP for the lunch by NOON on the Wednesday before the luncheon so that we can ensure that we have enough food and tables to accommodate everyone. The next FBA luncheon will take place on September 15, 2005. Please RSVP to Jamie Barenchi at (503) 595-4132, or by email to jamie@vangelisti.com.

Oregon Chapter
Federal Bar Association
1001 SW 5th Avenue, Suite 1900
Portland, OR 97204

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For the District of Oregon

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IN THIS ISSUE

THE U.S. TAX COURT: A RETURN TO FAIR AND TRANSPARENT PROCEEDINGS

By Norman R. Williams

In March, the United States Supreme Court issued its decision in Ballard v. Commissioner of Internal Revenue (No. 03-184). The case involves the U.S. Tax Court's use of Special Trial Judges (STJs) in certain, high-value tax cases. In such cases, STJs serve a function akin to that performed by Magistrate Judges in the U.S. District Courts – an STJ conducts the trial and prepares a report, which is reviewed by a Tax Court Judge who has ultimate decisional authority to render judgment. For the past two decades, however, unlike a report made by a Magistrate Judge or federal Administrative Law Judge, the STJ's report has not been provided or disclosed to the parties, and the parties have not been allowed to file exceptions to the report. Moreover, the Tax Court has refused to include the STJ's report in the record of the case, thereby shielding it from appellate review by the U.S. Court of Appeals and Supreme Court. It was this latter practice that was questioned by the taxpayers in the Ballard case.

Agreeing with the taxpayers, the Supreme Court held that Tax Court Rule 183 required the Tax Court to include the STJ's report in the record. Left unanswered by the Court, though, was whether the requirement to include the STJ's report in the record also implied a duty to disclose the report to the parties; if so, when the Tax Court was obligated to disclose the report; and, whether the parties were entitled to object to proposed findings of fact made by the STJ. These ambiguities were recently addressed by the Tax Court, which has just proposed amendments to its rules in response to the Supreme Court's decision. To the Tax Court's credit, the proposed amendments restore a fully transparent and fair process that will serve both counsel and the Tax Court well in the years ahead.

THE U.S. SUPREME COURT'S DECISION

Pursuant to Tax Court Rule 183, the Tax Court may assign certain high value cases (those that exceed $50,000) for trial before Special Trial Judges. Unlike Tax Court Judges, who are appointed by the President for 15-year terms, STJs are inferior officers hired by the Chief Judge of the Tax Court to assist the Court and serve at the Chief Judge's leisure. Following the trial, the STJ compiles and submits a

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FROM THE PRESIDENT

By Richard Vangelisti
Vangelisti Law Offices PC

At the commencement of our 2005-2006 term, it is worthwhile to revisit our identity and purpose as members of the Federal Bar Association. The FBA Constitution provides: the mission of the FBA "is to advance the science of jurisprudence and to promote the welfare, interests, education, and professional growth and development of the members of the Federal legal profession."

This mission is further set forth in a number of objectives:

To serve as the national representative of the Federal legal profession;

To promote the sound administration of justice;

To enhance the professional growth and development of members of the Federal legal profession;

To promote high standards of professional competence and ethical conduct in the Federal legal profession;

To promote the welfare of attorneys and judges employed by the Government of the Unite States;

To provide meaningful service for the welfare and benefit of the members of the Association;

To provide quality education programs to the Federal legal profession and the public;

To keep members informed of developments in their respective fields of interest;

To keep members informed of the affairs of the Association, to encourage their involvement in its activities, and to provide members opportunities to assume leadership roles; and

To promote professional and social interaction among members of the Federal legal profession.

To those ends, we are planning a year full of activities:

Monthly Lunches: Our monthly lunches will be held at noon on the third Thursday of each month beginning in September at Fernando's Hideaway, 824 SW First Avenue in downtown Portland. We will feature speakers on topics related to practice in federal court. Please let me know if anyone has ideas for particular topics and speakers.

Seminars: Helle Rode and Julie Bolt are planning a seminar in Salem to be presented later this fall. The seminar will cover tips for practice in federal court in which the State of Oregon is a party. The FBA Young Lawyers Division is planning to present its Professionalism Seminar later this fall. Finally, Courtney Angeli is planning the Advanced Federal Practice and Procedure Seminar to be presented on February 17, 2006. The event is co-sponsored by the Oregon Law Institute.

Annual Judges Appreciation Dinner: Courtney Angeli and Helle Rode are the co-chairs of the Annual Judges Appreciation Dinner, which will occur in April 2006.

Membership: A special welcome to Peter Richter who is the new membership chair.

Newsletter: David Angeli, Erin Lagesen, and Timothy Snider will continue to produce For the District of Oregon. We are always open to considering submissions, particularly those that focus on federal substantive law or practice in federal court in Oregon.

All of our Chapter's upcoming events can be found on our website – www.fedbar.org/oregon.html. If you have any ideas for the coming year or would like to participate in the planning of a project, please feel free to contact me. Thank you for all of your continued support of our Chapter's activities.

THE U.S. SUPREME COURT'S DECISION

Continued from page 1

report with his proposed findings of fact and conclusions of law. Prior to 1983, the STJ's report, like that of a Magistrate Judge or Administrative Law Judge, was disclosed to the parties, who then had the right to file exceptions to the report with the Tax Court Judge. Moreover, the pertinent Tax Court Rule directed the Tax Court Judge reviewing the STJ report that: "Due regard shall be given to the circumstances that the Special Trial Judge had the opportunity to evaluate the credibility of the witnesses, and the findings of fact recommended by the Special Trial Judge shall be presumed to be correct."

In 1983, the Tax Court amended the rule to delete both the requirement that the STJ's report be disclosed to the parties and the right of the parties to file objections to such report. Furthermore, since that time, the Tax Court refused to include the STJ reports in the record, so that even the U.S. Court of Appeals and Supreme Court were kept in the dark as to what the STJ originally found and concluded. Significantly, however, the Tax Court did not delete the requirement that the Tax Court Judge give "due regard" to the STJ's report and presume correct his factual findings. Thus, since 1983, although the STJ continued to play a significant, formal role in the adjudication of these cases, his original report was kept secret from the parties and even appellate courts.

Somewhat surprisingly, this secretive process went without challenge. Because the Tax Court Judges routinely and uniformly purported to adopt the STJ's opinion – since 1983, not one Tax Court opinion expressly overruled or modified the STJ's opinion – taxpayers were evidently lulled into believing that Tax Court Judges simply ratified and accepted without change the STJ's report.

The Ballard tax deficiency case revealed that, contrary to common perception, the Tax Court Judges were not merely rubber-stamping or ratifying the STJ's reports. The Ballard case involved three related taxpayers who were accused of avoiding millions of dollars of tax liability and engaging in

visit Oregon Chapter's page on the FBA website, www.fedbar.org/oregon.html, or contact Katherine Heekin, katherine@heekinlawoffice.com.

U.S. District Court of Oregon Historical Society Famous Cases Series. The next presentation is scheduled for September 29, 2005 at 4:00pm, and will highlight the "Whitman Massacre" cases. For more information, contact John Stephens at (503) 223-1510.

Save the Dates. On October 5, 2005, from 3:00 to 5:00pm, a yet-to-be-named federal judge will present a seminar on federal court pretrial filings in downtown Salem, Oregon. On November 1, 2005, Judge Anna Brown will present a seminar on Summary Judgment Motions in downtown Salem. For more information, please contact Helle Rode at (503) 947-4465.

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Missing Electronic Notices?

We have been sending the electronic notices via our listserv. While we have made every effort to obtain our members' e-mail addresses, we need your help to keep our list accurate and current. For those members without e-mail, we are providing the electronic notices by fax. If you have an e-mail address or fax number and have *not* been receiving electronic notices, or if your e-mail address changes, please contact our "listmaster": **Seth Row, Bullivant Houser Bailey,** (503) 499-4465, seth.row@bullivant.com.

Call For Submissions/Publication Schedule

For the District of Oregon welcomes submissions from everyone as well as our regular contributors. The **deadlines** are: **March 15** (Spring edition), **June 15** (Summer edition), **September 1** (Fall edition), and **December 1** (Winter edition). We ask only that you advise us in advance if you are preparing a submission. Please direct inquiries to David Angeli, (503) 294-9633, dhangeli@stoel.com; or Timothy Snider, (503) 294-9557 twsnider@stoel.com.a

SAM BAILEY, WESTVIEW HIGH SCHOOL

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rights for them which were also said to be "unalienable"?

Racism still wreaks havoc in our world today. Anybody who disagrees should, for lack of a better term, wake up! On a broad scale, such racist acts as "ethnic cleansings" and apartheid come to mind. But racism is practiced in our daily lives, too. When a black athlete is interviewed on television and appears to be a decent speaker, I have noticed that people comment on how "articulate" he or she is. No such comments occur when a white athlete with similar speaking ability is interviewed, even though both are equally capable of speaking English. Perhaps it is an injustice to "compliment" people of different races and ethnicities on accomplishing something that society does not expect from them, for the truth is that society is wrong in not expecting it.

The good news is things can change. There is no disputing that America has experienced blatant racism in the past, but that is something that cannot be changed. The most important thing people can do is recognize history for what it is, learn from mistakes, and make a common goal to move on. There are differences in opinion on how this should be done. My basic belief is that, since we are *naturally* born equal - making racism *unnatural* - the question to ask when observing racism is: "is this natural?" Was it natural for blacks to be denied equal education? No. Was it natural for those who were denied to fight for their rights? Absolutely. Someday, when the achievements of African-Americans are not considered more special than those of a white man, it will be natural.

Brown vs. Board of Education was indeed a noble fight, but also should be a thorn in the conscience of the American people. When we have eliminated the need for such movements, we will truly have succeeded in meeting our goal: equality.

JUSTIN FOWLER, WEST SALEM HIGH SCHOOL

On May 17th of 1954, Chief Justice Earl Warren, on behalf of the U.S. Supreme Court, declared that racial segregation of public schools was unconstitutional. To hear a history teacher tell it, there was quite a little ruckus in Little Rock, Arkansas when nine black students attempted to attend a previously all-white school, and attempted to shatter centuries of white and black separation. The Governor of Arkansas enlisted the National Guard with their helmets and rifles and firm salutes to valiantly defend Little Rock Central High School against these nine high school students. More than two weeks passed before the Governor was forced to remove the helmets and rifles and firm salutes. And yet when the nine high school students returned, the townspeople of Little Rock had rallied to defend Little Rock Central High School from these nine high school students. It seems ironic that a school would need to be defended from students wanting to attend it. In the end it took the helmets and rifles and firm salutes of eleven thousand soldiers sent by President Eisenhower to breach the defenses of Little Rock Central High School, to herald the beginning of the end for these centuries of white and black separation, to allow nine high school students to enter a high school.

The American students of today were not alive in 1954. Not one of them saw the end of racial segregation in public schools. They probably could not imagine eleven thousand soldiers advancing on their school for any reason at all, much less to allow nine students to go to school. Asking a high school student of 2005 to write about the legacy of an event that occurred in 1954 is tantamount to asking them to write about the legacy of women's suffrage in 1920 or the legacy of the emancipation proclamation in 1863. All of these events are equal in the eyes of a high school student today, as all of them occurred before they were born, and define America as it is in 2005.

The legacy of the Supreme Court's decision in 1954 on the case of *Brown v. Board of Education* is not racial awareness. The legacy is not the documents posted on the walls of some high schools that inform students racial discrimination is a violation of district policy. The legacy is not even the fact that black high school students and white high school students can sit next to each other in a school library and write about the legacy of the end of segregation, together. The legacy of *Brown v. Board of Education* is that high school students in 2005 take documents posted on walls, informing them that racism is against district policy, for granted. The legacy is that high school students in 2005 don't think about the historical significance or sociological implications of sitting next to a student of another race in the same school building. The legacy of *Brown v. Board of Education* is in fact, racial unawareness. High school students in 2005 are blind to racism, and cannot even think of a thousand words to say about an event so significant that volumes have been printed regarding it. That is the legacy of May 17th, 1954.

ANNOUNCEMENTS

Ninth Circuit Conference. The University of Arizona Rogers College of Law in Tucson, Arizona, will host a conference on the Court of Appeals for the Ninth Circuit on September 30 to October 1, 2005. By focusing on judicial processes and decision-making, the conference will provide a more in-depth understanding of the circuit court responsible for the largest proportion of the federal appellate caseload. The operation of the Ninth Circuit will also be placed in the context of other circuits. There will be 8.25 Continuing Legal Education credits available. For more information, please see the College's website at www.law.arizona.edu or call Donna Ream at (520) 626-2400.

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tax fraud. The taxpayers sought redetermination of their tax liability, and their case was assigned to an STJ for trial pursuant to Rule 183. After a five-week trial and year-long post-trial briefing period, the STJ filed his opinion, which was then assigned to a Tax Court Judge for review. Five years after the trial, the Tax Court announced its decision finding the taxpayers guilty of tax fraud and assessing tax penalties. The Tax Court opinion stated that the court "agrees with and adopts the opinion of the Special Trial Judge, which is set forth below." What followed was a 600-page document purportedly authored by the STJ.

Several months later, two Tax Court Judges (neither of which had been involved in the Ballard case) approached counsel for one of the taxpayers and informed him that the STJ in the Ballard case had originally found in favor of the taxpayers and that the Tax Court Judge had rewritten several critical sections of the STJ's report. Based on these statements, the taxpayers sought access to the STJ's original report, which the Tax Court denied. On appeal, three different U.S. Courts of Appeals upheld the Tax Court's decision to keep the original report secret, concluding that the 1983 amendment of Rule 183 was intended to establish a collaborative adjudicatory process in which the STJ and Tax Court Judge consulted one another regarding the final decision and that, consequently, the original STJ report was an internal deliberative document to which the parties had no right of access.

Reversing, the Supreme Court denied that Rule 183 permitted, much less created, a collaborative process in which the STJ and Tax Court Judge jointly prepared the final opinion of the court. Writing for the seven-member majority, Justice Ginsburg pointed to the fact that, even after the 1983 amendment, Rule 183 still obligated the Tax Court Judge to give "due regard" to the fact that the STJ had the opportunity to evaluate witness credibility and to accord a presumption of correctness to the STJ's findings of fact. Such formalized deference, Justice Ginsburg emphasized, precluded the Tax Court Judge from secretly overruling the STJ and rewriting his report. Moreover, the Court expressly held that, to ensure compliance with Rule 183, the STJ's original report had to be included in the record. Only in that way could the appellate courts ascertain whether the Tax Court Judge had deferred to the STJ's proposed findings of fact as required by Rule 183. Chief Justice Rehnquist, joined by Justice Thomas, dissented.

UNANSWERED QUESTIONS

Though the Court was quick (and correct) to condemn the Tax Court's secretive process, the Court gave little guidance regarding how the Tax Court was to handle STJ reports in the future. According to the Court, the fatal defect was the Tax Court's failure to include the original STJ report in the record. At the same time, however, the Supreme Court did not say that the parties were entitled to see the STJ's report or file exceptions to the report. Thus, the Court read Rule 183 as creating a hybrid decisional process: The original STJ report need not be distributed to the parties upon filing, but it must be included in the record so that the appellate court reviewing the Tax Court decision could ensure that the Tax Court Judge had complied with the due regard requirement of Rule 183.

Needless to say, this hybrid process placed both the Tax Court and counsel in an uncertain position. First, although the Court did not expressly declare that the Tax Court must provide the parties with a copy of or access to the STJ's report, such access seemed implicit in the requirement that the STJ's report be included in the record. After all, for the appellate court to be able to assess the Tax Court's compliance with Rule 183, it is essential that the parties have access to the STJ's report so that they can guide the appellate court's review of the record. Thus, the Supreme Court's ruling that the STJ report must be part of the record ineluctably leads to the conclusion that the parties must have access to the report in some fashion.

Second and relatedly, the Court did not indicate when the parties must be given access to the STJ's report. The Supreme Court's repeated emphasis on the role of the U.S. Court of Appeals in enforcing Rule 183 implied that it might suffice for the Tax Court to include the STJ's report in the record only after the Tax Court proceedings had concluded but prior to the filing of the record with the Court of Appeals. Yet, Rule 183 is directed to the Tax Court itself and, therefore, presumably is enforceable by the Tax Court. Indeed, it would be truly unusual to have a procedural requirement that is to be enforced *exclusively* by the appellate courts. Obviously, for the Tax Court to enforce Rule 183, the parties must have access to the STJ's report while the Tax Court proceedings are on-going so that they can seek appropriate relief in the Tax Court. At the earliest, the STJ's report could be disclosed when it is submitted to the Tax Court for review. That was the pre-1983 regime. At the latest, the report could be disclosed when the Tax Court Judge issues his or her decision, though at that point there would be little time remaining for the parties to seek post-decision relief pursuant to Tax Court Rule 161 and/or Rule 162.

Third, the Supreme Court left unaddressed whether the parties have the right to file exceptions to the STJ's report in cases in which they obtained the report prior to the release of the Tax Court's decision. Strictly speaking, nothing in the Supreme Court's opinion cast doubt on the propriety of the Tax Court's 1983 amendment deleting the parties' right to file exceptions to the STJ's report. Moreover, the need to ensure that the Tax Court Judge complied with the "due regard" requirement of Rule 183 does not imply the need for the right to file objections to the STJ's report. Nevertheless, the absence of such exceptions places the Tax Court Judge in a difficult position of reviewing the STJ's report without the benefit of pre-decisional briefing by the parties. Moreover, the Tax Court Judge would be forced to perform his review knowing full well that his compliance with Rule 183 potentially could be the subject of a post-decisional motion for reconsideration and/or appeal.

These unanswered questions left both counsel and the court in a quandary regarding pending and future cases in the Tax Court.

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UNANSWERED QUESTIONS

Continued from page 3

Absent the adoption of some uniform policy or rule change, counsel and court alike would be forced to confront these issues on a case-by-case basis, with the resulting potential for inconsistent rulings by different STJs and Tax Court Judges. Thus, the Supreme Court's failure to provide greater guidance called for further reform and placed the onus on the Tax Court to clarify its procedures.

THE TAX COURT'S PROPOSED AMENDMENTS

In early July, the Tax Court published proposed amendments to Rule 183 to respond to the Supreme Court's decision. In essence, the Tax Court returned to the transparent procedural regime that existed prior to 1983. First, the new Rule 183(b) expressly provides that the STJ's report (now labeled his "recommended findings of fact and conclusions of law") will be served upon the parties at the same time that it is filed with the Tax Court. Second, the new rule expressly provides that, within 45 days of service of the STJ's report, the parties have the right to file exceptions to the report. Responses are due within 30 days thereafter, though these time periods may be extended by the STJ. Third, the new rule preserves the pre-existing requirement that the Tax Court Judge must defer to the STJ's recommended findings of fact, which shall be presumed to be correct. Comments on the proposed rule are due by September 6, 2005. The new rule is schedule to go into effect on September 20, 2005.

The Tax Court's proposed changes to Rule 183 should be commended. Not only do they restore the transparent process that existed prior to the ill-advised rule change in 1983, the proposed amendment eliminates the strange, hybrid process created by the Supreme Court's decision. In its place, the new Rule 183 brings the Tax Court's procedures into line with that used by other courts and federal administrative agencies that use adjuncts to conduct evidentiary hearings. Indeed, in its accompanying commentary, the Tax Court expressly noted its intent to conform its process to that used by U.S. District Courts in reviewing reports made by Magistrate Judges.

Although the proposed rule changes address the ambiguities left by the Supreme Court decision, counsel in cases currently pending before the Tax Court must be vigilant in protecting their clients' right of access to the STJ's report. Once post-trial briefing is completed, counsel should seek access to the STJ's report. To accomplish that, counsel should file a motion with the STJ asking for a copy of the report once it is filed with the Tax Court. If unsuccessful, counsel should renew the motion with the Tax Court Judge assigned to review the report. The Ballard decision provides sufficient justification for such relief, and, especially in light of the proposed amendments, there is no conceivable basis for the Tax Court to refuse access to the STJ's report prior to the release of the Tax Court's decision.

After the new Rule 183 goes into effect later this fall, counsel should make use of the new procedural tool available to them, specifically the right to file exceptions to the STJ's recommended findings of fact and conclusions of law. Indeed, failure to do so presumably would waive the right to contest findings of fact recommended by the STJ later in a post-decisional motion for reconsideration or on appeal.

In sum, Ballard marks a significant victory for taxpayers and their counsel. The Court's decision eliminated the secretive process used by the Tax Court for the past two decades. Although Ballard left the Tax Court with a strange, hybrid process unique in the federal courts, the Tax Court's proposed changes to Rule 183 bring it in line with other courts and administrative agencies. The new process, once it goes into effect, is more transparent and fair than that used for the past two decades, and, for that, both the Supreme Court and Tax Court should be applauded.

** Norman Williams is an Assistant Professor of Law at Willamette University College of Law. He specializes in constitutional law, administrative law, and the federal courts. Professor Williams previously practiced in the U.S. Supreme Court and appellate litigation practice group of the New York law firm Mayer, Brown & Platt (now Mayer, Brown, Rowe & Maw). He can be reached at normanw@willamette.edu.*

JUDGE HAGGERTY CIVIL RIGHTS ESSAY FINALISTS

This year in the Haggerty Civil Rights Essay Contest, contestants submitted essays discussing the U.S. Supreme Court decision in *Brown v. Board of Education*. Katie McGuire of Portland's Lincoln High School took first place in the contest, Sam Bailey from Beaverton's Westview High School placed second, and Justin Fowler from West Salem High School was the third-place winner. Two other students received Honorable Mention for their essays: Craig Ritchie from West Salem High School and Celia Russelle from Westview High School. The essays of Katie McGuire, Sam Bailey, and Justin Fowler are printed below.

KATIE MCGUIRE, LINCOLN HIGH SCHOOL

People today see *Brown v. Board of Education* as a symbol of American society towards African-American equality and the spark of the Civil Rights Movement. *Brown v. Board of Education* has not only brought significant change for African-Americans in America, but has set the stage for judicial protection of everyone's civil rights by bringing new meaning to the Fourteenth Amendment. The legal precedent set in *Brown* is still a paradigm of equality for human rights activists today and has helped inspire women, disabled persons, homosexuals, and people deemed enemy combatants by the government in their fight for equal opportunity, and procedural and substantive due process.

Brown v. Board of Education was decided at a time of deep racial tension, especially in the South. *Plessy v. Ferguson* had been decided just 58 years before *Brown* and displayed great weakness of the court, in which Justice Brown's majority opinion used America's, or rather the Southern radical white culture as justification for the separation of races. Justice Brown said, "Legislation is powerless to eradicate racial instincts or to abolish distinctions based on physical differences and the attempt to do so can only result in accentuating the differences of the present situation."

The Supreme Court Justices in *Brown v. Board of Education* went beyond Justice Brown's reasoning. They found that the 14th Amendment was not put in place to preserve southern tradition. Even though legislation may result in accentuating race differences, it was necessary for equality over a long period of time. To rule in favor of true equality, the Supreme Court found their justification for *Brown* primarily based on the psychological damage done to black children sent to segregated schools. The true greatness about this decision was that the Court disregarded the mindset of the majority of the South to find protection of minority rights in the Constitution. As Justice Marshall Harlan said in his famous *Plessy* dissent, "our Constitution is colorblind, and neither knows nor tolerates classes among its citizens."

Brown v. Board of Education became a symbol of the court's ability to protect rights and produce significant social reform. The case was soon followed with the Montgomery Bus Boycott and Martin Luther King's use of civil disobedience in the South for equal rights for African Americans. It led to the Civil Rights Act of 1964 and the Voting Rights Act of 1965. It led to sit-ins and bus rides and freedom marches. Justice Stephen Breyer said, "*Brown* also transformed the entire Constitution into one that expresses the belief that many millions of Americans of different races, religions, and points of view can come together to create one nation."

Seeing the effect *Brown* had on the rights of African Americans, women set out for equal rights in the workforce. As long-time civil rights litigator Jack Greenberg said, *Brown* is the "principal inspiration to others who seek change and the protection of rights through litigation." Many women were inspired by the Civil Rights Movement, and began their own feminism movement to ensure equal pay and benefits in a male-dominated society.

Brown has also had a substantial effect on Congress's protection of minority rights. In 1990, Congress passed the Americans with Disabilities Act to protect the rights of the disabled. Along with the ADA, Congress passed the Individuals with Disabilities Education Act in 1997. Together these have given equal job opportunity and education for handicapped people.

The Supreme Court's 2003 decision in *Lawrence v. Texas* that struck state laws banning homosexual sodomy have been hailed by some as the *Brown v. Board of Education* for gay Americans. In the 21st century, homosexuals seem to be the newest group of people facing limited civil rights. *Brown* is the one example they follow as guidance to know that justice will thrive in the Court's decision even if it is against the moral values of many. The Constitution provides for equal protection of the laws and homosexuals are no exception.

Foreigners have also followed the example of *Brown*. In *Hamdi v. Rumsfeld*, the Supreme Court found that the executive branch could not deny fundamental due process rights to habeas corpus and an impartial trial to persons deemed "enemy combatants." Even people who do not live in the United States have expanded their civil rights in the last few years thanks to *Brown*, which stressed that even those looked upon as "inferior" by many deserve the same protection under the Constitution.

This concept has solidified *Brown's* significance in American history. The great movements, events, laws, and cases that have increased the meaning of the 14th Amendment and brought more equality to America owe their success to *Brown*, which opened up the doors of opportunity to many oppressed classes and people around the country. This is *Brown's* legacy. *Brown* has allowed those called "inferior" by many to have the same protection under the law as everyone else. Our Constitution neither knows nor tolerates classes among its citizens, and the women, disabled persons, homosexuals, and enemy combatants who have successfully gained rights since *Brown*, owe their newfound equal protection to *Brown v. Board of Education*.

SAM BAILEY, WESTVIEW HIGH SCHOOL

I am supposed to write an essay about the legacy of the de-segregation laws that followed the *Brown vs. Board of Education* trial. I know that most people will sit down and write an essay with the generic theme of "African-Americans gained a lot from those desegregation laws." Perhaps some feel strongly about that--great. Or, perhaps they are only writing what their teacher expects them to write, not thinking about what they are saying. Well, I have thought about it, and the conclusion I have reached is that it is a shame such an essay has to be written. It is a shame that men and women who were different in skin color, yet fully equal in capability, have ever had to endure such prejudice. The true legacy of *Brown vs. Board of Education* is the guilt people should feel for ever causing it to take place.

On the surface it seems that times in our nation's history such as the desegregation of public schools, or Jackie Robinson being the first African-American baseball player, are momentous landmarks. But what do they signify? One race of people, who had asserted power over another race, slowly relinquishing rights that should have been endowed upon them from birth. Today we have respect for the NAACP, which was founded during times of intense racism. I feel nothing but disgust - not for the courageous, compassionate black men and women who risked their well-being just to be members, but for the fact that the organization had to come into existence in the first place. The National Association for the *Advancement* of Colored People? As Thomas Jefferson said, "all menare created equal," yet for some reason it was necessary for blacks to form anorganization which pursued

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