

# To win equality by law: Brown v. Board at 50

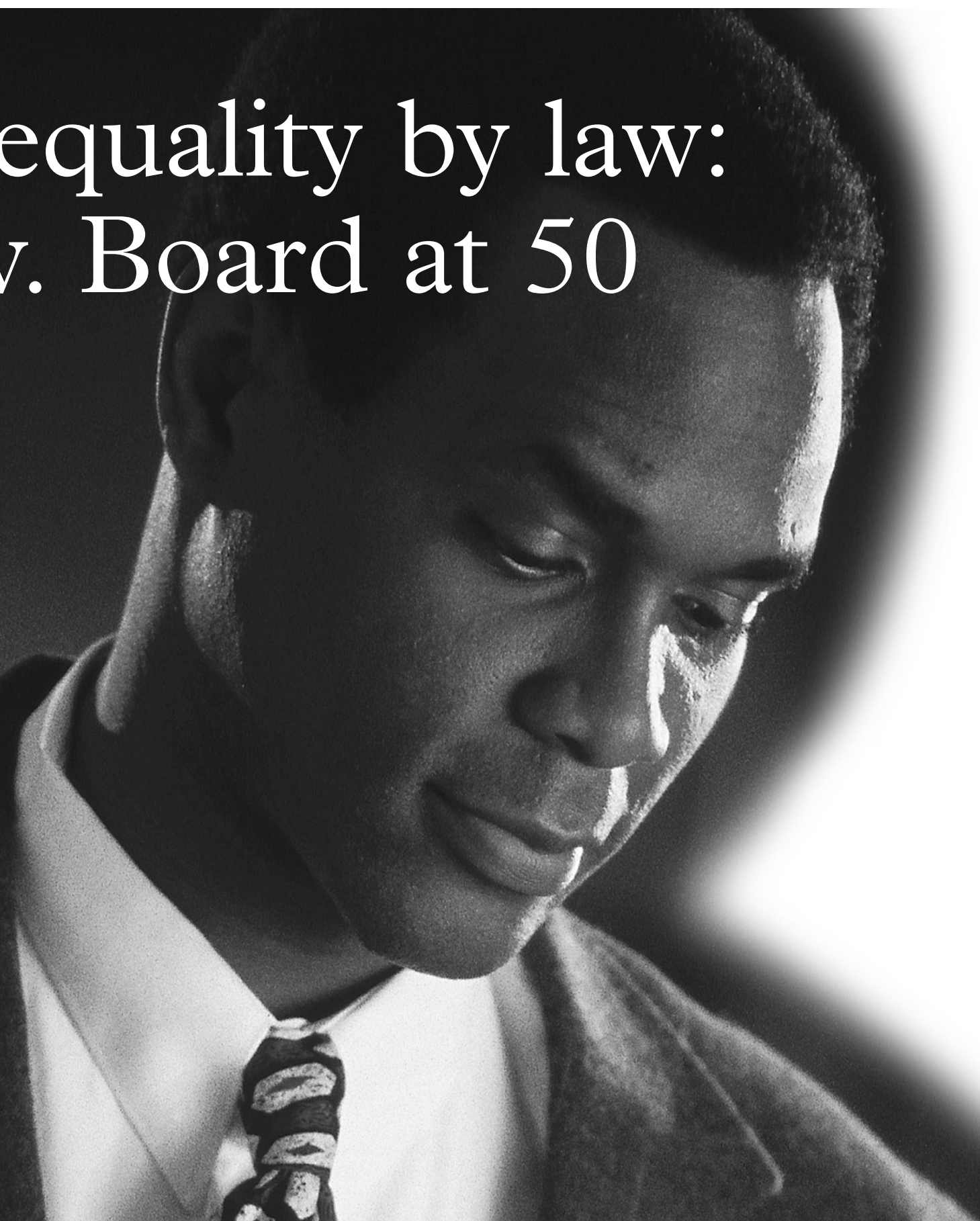
## LAW DAY 2004

Since our nation's founding, one group of Americans after another has redefined "equality," through law and the courts, for the citizens of our country.

No milestone in this process is more well known than the Supreme Court's 1954 ruling in *Brown v. Board of Education*. The culmination of a long line of court cases, *Brown* not only struck down laws segregating public schools, but also sounded the death knell for government-sanctioned segregation and made all Americans more aware of our Constitution's promise of equality.

Law Day 2004 will celebrate the 50th anniversary of this historic case.

By commemorating the court's decision in *Brown*, Law Day can help illuminate the meaning of equality in our democracy and the role of law, advocates, and courts in establishing and protecting our rights.



## 50 years later, the continuing challenge of Brown v. Board of Education is examined

Daily Reporter Staff

To commemorate the 50th anniversary of the landmark U.S. Supreme Court decision *Brown v. Board of Education*, which found schools segregated on the basis of race to be unconstitutional, the American Bar Association hosted a seminar to discuss the case.

"Fifty Years After Brown: The Continuing Challenge" convened yesterday at the National Constitution Center in Philadelphia to "take a critical look at how, if at all, *Brown* has changed what it means to be an American," according to the American Bar Association.

The program featured a moderated panel discussion by experts in various fields responding to hypothetical scenarios constructed around the legal, ethical, and public policy issues posed by the *Brown* decision.

Charles J. Ogletree Jr., the Jesse Climenko Professor of Law and vice dean of Clinical Programs at Harvard Law School, served as moderator. He also chaired the ABA Commission on the 50th Anniversary of *Brown v. Board of Education*. Panelists include:

Other seminar panelists were ABA president and former Detroit Mayor Dennis W.

Archer; Clint Bolick, president and general counsel for Alliance for School Choice, a national advocacy program based in Phoenix; Ward Connerly, founder and chairman of the American Civil Rights Institute; and Daniel A. Domenech, senior vice president for the National Urban Markets for McGraw-Hill Publishing and former superintendent of Fairfax County Public Schools in Virginia, the 12th largest school system in America.

Also participating were Harry T. Edwards, former chief judge, U.S. Court of Appeals for the District of Columbia Circuit, Washington; Elaine R. Jones, president and director-counsel of the NAACP Legal Defense and Educational Fund, Inc.; Rebeca Nieves Huffman, president of the Hispanic Council for Reform and Educational Options; and Mary A. McFarland, educational consultant and past president of the National Council for the Social Studies.

Dale Mezzacappa, senior education writer, Philadelphia Inquirer participated in the discussion, as did Gary Orfield, professor of education and social policy in the Harvard Graduate School of Education and founding co-director of Harvard's Civil Rights Project; Mayor Eddie A. Perez, Hartford, Conn., former executive

director of Southside Institutions Neighborhood Alliance Inc.; Benno C. Schmidt Jr., chairman of the board of trustees of the City University of New York and former president of Yale University; and Abigail M. Thernstrom, senior fellow at the Manhattan Institute in New York, member of the Massachusetts State Board of Education, and commissioner on the U.S. Commission on Civil Rights.

The ABA Division for Public Education hosted the program as part of its continuing effort to promote public understanding of the law and its role in society by providing national leadership for law-related and civic education efforts through programs and resources, and by fostering partnerships among bar associations, educational institutions, civic organizations.

The American Bar Association is the largest voluntary professional membership association in the world. With more than 400,000 members, the ABA provides law school accreditation, continuing legal education, information about the law, programs to assist lawyers and judges in their work, and initiatives to improve the legal system for the public.

### The future of the legal profession

## Technology, diversity and multi-jurisdictional practices will be even more important in years to come

By JEREMY HOLDEN  
Daily Reporter Staff Writer

In 25 years, around the time a newly-configured United States Supreme Court determines that the University of Michigan no longer needs to use affirmative action in recruiting law school applicants, a female attorney of African American and Hispanic descent will video conference with a mediator in Phoenix, settling an employment dispute.

Technological advancements continue to shrink the world, causing as many seismic shifts in the legal profession as are caused in the global economy, making it increasingly likely the attorneys will be competing for clients on a global scale, according to Keith Ashmus, president of the Ohio State Bar Association.

"Lawyers are going to have to take advantage of the advances that technology provides, but also accommodate the changes that this is going to bring," he said.

Technological advances that will allow attorneys in Columbus to videoconference with mediators and judges from around the world, however, will allow attorneys from other markets to compete for Columbus clients.

"That's good and bad. We can practice anywhere, but people can come here and practice in our courts," he said, adding that bar officials throughout the country will need to address bar admission standards in the coming years.

Though Ashmus said he advocates state licensing, licensing officials must address multi-jurisdictional practices, notably holding visiting attorneys to the disciplinary mores of a remote state.

Getting to the point of videoconferencing, moreover, will require sufficient public funding to get courtrooms up to date technically to provide for a more efficient justice system, Ashmus added.

And as the courts take on a new physical appearance with increasing use of digital media, the state bar's current president said, so too will the greater societal image of the court system change.

If current trends within the justice system continue, though, the new court might not like its reflection in society's looking glass.

"We don't think of them as the Supreme Court and the courts that were portrayed in '12 Angry Men' and 'To Kill a Mockingbird,'" Ashmus said. Today's courts are portrayed as 'Judge Judy,' where warring parties scream at each other with a robbed official serving as intermediary, he explained.

Complicating the profession's view from afar are contentious confirmation battles for seats on

*On the federal bench, presidential searches for judicial appointees likely to vote in line with pre-determined principals are likely to leave the best and brightest judicial minds off the high court, making it less and less likely that future generations will have their own Oliver Wendell Holmes to emulate, according to Ashmus.*

federal benches and a downward spiral in statewide judicial elections, paid for by interest groups outside the system.

"I think there are better systems than we have in Ohio. I used to think the federal system was better, but Congress and the administrations over the past 15 years have changed my mind," he said. On the federal bench, presidential searches for judicial appointees likely to vote in line with pre-determined principals are likely to leave the best and brightest judicial minds off the high court, making it less and less likely that future generations will have their own Oliver Wendell Holmes to emulate, according to Ashmus.

"Unless we drastically change the respect we have for opposing views in this country, I think it's going to deteriorate. It seems that every administration has the backlash of what happened in the last administration. Whoever started it, it's like the Hatfields and McCoys. Who knows who started it? That's very disappointing to me," he said.

In recent years elected officials in Ohio have looked at ways to improve the judicial election process in the face of increasing costs to elect judges and the fallout of negative ads, with a larger percentage of voters believing that money could purchase access to the justice system. A system modeled on the federal merit selection is unlikely given previous voter rejection of such a system.

And as federal lawmakers debate the merits of civil justice reform, placing caps on certain damages doled out by juries, Ohio's civil justice system already has capped medical malpractice damages pending in the Statehouse.

According to Ashmus, the temperature in society is such that tort reform is a relative certainty, as doctors and engineers are facing catastrophic insurance rates, corporate officials and small business owners fear costly litigation costs and residents at the low end of the economic spec-

trum often are left out of the system altogether. "There is a lot of unhappiness with the way people are treated by the justice system. That to me says it's not sustainable," he said.

Another issue Ohio legal professionals have faced in recent years that will change the profession in years to come has been diversity, with area law schools and firms committed to recruiting minority attorneys.

Ashmus said the issue must extend into elementary and high schools, ensuring that students from all segments of society conceivably know they could pursue a legal career.

"Until we do something about that level of education, we'll be trying to make up for it in other levels of education," he said of affirmative action in the college selection process.

As the legal profession grapples with an ever-changing world, technologically and demographically, Ashmus said, the profession needs to be forward looking, not simply addressing the ills of today but anticipating those yet to be realized.

With respect to diversity, the issue must extend beyond gender and race. The profession must embrace attorneys of various ethnic backgrounds, sexual orientation and mode of thought, he said.

"If you look at diversity only as a function of who in the legal profession is in Firm A vs. Firm B, you miss out on the bigger picture of who in society ought to be in the legal profession but is not, and what are the barriers," he said.

One thing Ashmus' crystal ball shows remaining with respect to the profession is the larger society's love of lawyer jokes, though he added that the fight is not against lawyer jokes. Rather, attorneys should strive for an image of problem solvers.

"People don't like lawyers, but they love their lawyer," he said, adding, "happy Law Day."

### The legal profession's past

## Ethics and hard work remain key to attorneys' careers

By JEREMY HOLDEN  
Daily Reporter Staff Writer

In 1956, portable phones that could reach clients in China and a worldwide web of communication proving instantaneous document transition from a living room in Columbus would have made for great science fiction at the local drive-in, while attorneys pounded away at typewriters and met clients in person.

This is not to imply that technological advancements have damaged the practice of law over the past 50 years. To the contrary, said Paul D. Ritter, a partner with the Columbus law office of Kegler, Brown, Hill & Ritter Co. LPA, who noted that technology has benefited the field significantly in the past half century.

Entering the legal field in the 1950s meant a future of book research, shepherding case history in law libraries, and enough postage stamps to send documents to the proper mailing address, which consisted of considerably more than user-name@serviceprovider.com.

Today's lawyers click the mouse a few times, and the latest Internal Revenue Service filings on a client can be retrieved and researched, relevant case law sought, relevant documents typed and, in jurisdictions with the latest technical capabilities, filed without leaving the computer terminal.

But with the technological advancements

allowing for rapid document preparation and transmission, the practice also has experienced heightened demands on their time, with clients often expecting a response to their morning e-mail by the afternoon, if not sooner, Ritter said.

"In particular the Internet and cell phone has decreased the time you are demanded to respond to clients' questions. That cuts down on your ability to research and get answers more in depth. The clients are sending you questions electronically and demanding them electronically," he said.

With increased speed comes the inability of many attorneys to cut a broad swath; enhanced technology has helped to create an environment of specialization. But technology alone has not driven the field into increased specialization, for it has shared driving privileges with a legal framework that has grown increasingly complex.

Ritter noted that in his field, taxation law, pension law changes over the years have created tax attorneys who focus primarily on the tax implications of employee benefits.

In health care, attorneys could spend a career focusing on recently enacted legislation concerning patient privacy.

"I believe that the law has become significantly more complex, and the complexity of the law leads to specialization. Young lawyers coming in will eventually move to a specialization," he said.

As specialists, complex legal issues might require more collaboration between specialists than when Ritter first entered the practice.

"That's a real fact of life, particularly in a firm. There is a sharing of work on specific projects," he said adding that collaboration marked the field to a lesser extent when he first began practicing.

With time, the field also has grown to embrace demands on an attorney's time outside billable hours and docket preparation. "There is just greater recognition today of competing priorities other than the practice of law," he said.

Greater technology quickening response time, coupled with greater firm respect for outside priorities has helped foster a more buttoned-down approach to the practice of law when compared to firm life in the 1950s, when suits and ties were not optional.

But Ritter noted that society at large has become less formal, with clients often expecting attorneys to dress down.

"It's much more informal now than it was many years ago. That's not a judgment call; that's just what's happening. It's very nice, and very good," he said.

That increasing acceptance of informality, moreover, has created a fluid field, where attorneys increasingly view their current jobs as a step on a larger career path. In 1966, Ritter joined

Kegler, Brown, Hill & Ritter where he has practiced for nearly 40 years.

"My guess is, people coming out when I came out were looking for an initial position that would pretty much be a permanent position—a permanent opportunity to get in the practice of law and remain in the practice of law. I think most people looked at it as a full-time, lifetime career."

"I think today there is much more flexibility in society. I think people coming out today may be looking for a job that, yes may get them started in the practice, but in no way would be a lifetime with a firm or a corporation," he said.

Throughout his career, Ritter has seen the practice of law become more open to members of society, specifically women and minorities who were less prevalent in the field in the past than today, though progress remains, he said.

For all the changes to his profession over the past half-century, Ritter added, some things remain constant. The practice of law is a time-consuming endeavor drawing on analytical skills and the ability to communicate. Though the media might have changed, the reading and writing remains.

As does the professionalism, the Ohio State University Law School graduate said, noting that lawyers' collective awareness of the professional code of ethics and adherence to that code remains.

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does little to enhance the image of the profession.

These events aside, there are many positives. Minorities and women have seized an ever expanding role in the practice of law. In particular, the proactive action taken by many metro bars has opened the door for minority clerkships which result in minority associates and minority partnerships.

What a success the legal profession has had in drawing into its midst lawyers of color and women. They hold high office in local bar associations and are some of our most highly regarded leaders.

The president of the American Bar Association this past year is Dennis Archer, an African American who gave up his seat on the federal bench to lead Detroit through

troubled mayoral terms. His professional and public life is an extraordinary tribute to the spirit of Martin Luther King's dream.

Pro bono services are another feather in the profession's collective cap. Bar pro bono programs throughout the United States provide services to the working poor for everything from eviction proceedings, to domestic matters, to providing post conviction

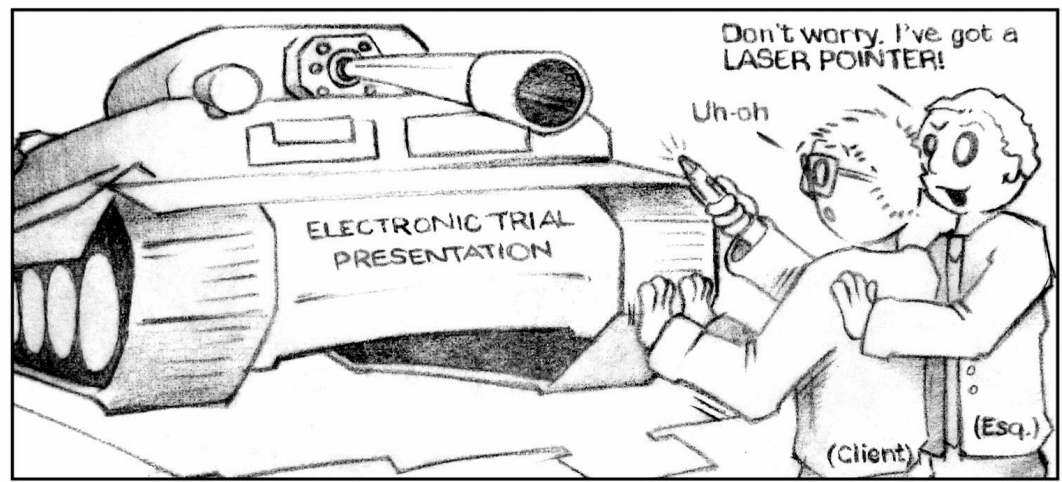
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*Brown v. Board* at 50

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Brown vs. Board of Education – 50th Anniversary