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APOLOGY FOR A LEGACY OF IGNORING RACE: A LETTER TO MY FORMER LEGAL CLIENTS

BY ALECIA WARTOWSKI*

“I know that it’s been some time since I represented you, but I promised you I would tell the judge your side of the story. I didn’t do it right. Despite all my hard work and good intentions, I failed you. And I’m sorry.”

I sometimes wonder if I should send this letter to every one of my former clients. I realize that despite my legal training, professional development and diligence as an attorney, I had no skill or capacity to operate around race when race was a large part of the entire legal system. As I read the barrage of new stories about racially based social injustice from voter ID laws to Ferguson to stop and frisk, I realize the problems I tried to address are still pervasive.

In legal aid, you represent the poor for free. In 2012, the American Bar Association found that 88 percent of all licensed attorneys were white. As a white legal aid attorney in Chicago, more than 90 percent of my clients were people of color.

And they weren’t treated well.

One client had an order of protection against her child’s father, but the police were unwilling to help when he allegedly threatened and stalked her. Another client once left school early for a medical issue, and his teacher asked if he was going to

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“bother” to do his homework if she gave it to him. Other clients showed up in court each month and lost a day’s wages, only to have the judge continue the case for another month. As story after story like these occurred, I began to wonder whether it was a coincidence that all of those clients had brown skin.

There is a national discussion on reforming legal education. Applications to law school are down, and there is a sense that legal education isn’t serving the legal needs of our society. While there is an increased commitment to diversifying faculty and student populations, there is silence as to curriculum about race and privilege.

In my Constitutional Law class, at the University of Wisconsin, no one contemplated what it meant that until 1967 our Constitution was written and interpreted exclusively by white men. I didn’t learn that in the 1920s, people had to petition the Supreme Court¹ to determine their “whiteness” for purposes of citizenship. In my property class, we didn’t study redlining², the process of denying or limiting financial resources to certain areas because its residents are people of color. No discussion of affirmative action ever included consideration of the preferential treatment in admissions given to the children of wealthy white alumni.

In fact, I did not take a single class in law school, was not tested on the bar exam about, and did not attend a single professional development seminar on cultural competence, racism or dialoguing across identity during the almost 10 years I practiced law.

I often thought I was good lawyer. And yet, my clients’ problems were rarely solved.

¹ *Takao Ozawa v. United States*, 260 U.S. 178 (1922); *United States v. Bhagat Singh Thind*, 261 U.S. 204 (1923)

² <http://www.encyclopedia.chicagohistory.org/pages/1050.html>

Yes, the quick fixes that I used, through securing a divorce, recommending appointment of a guardian or working out a visitation arrangement seemed like victory at the time. But every once in a while I stepped back and wondered, “Am I actually doing any good?”

And now, I apologize because I could have done better. One client was so committed to retaining custody of his children that he walked to my office because he did not have money for bus fare. I saw his deficits and his poverty, not his strengths. I could have argued to the judge about his dedication to his children, his skills in arranging for quality childcare, and his willingness to walk 10 miles in the rain to meet with a lawyer. Yet I focused on his deficits, and I risked separating a strong family.

Just understanding race, privilege and power structures would not have solved all of the problems. Taking one class in law school or attending one professional development seminar cannot dismantle racism. But few law schools are intentionally teaching about racism and there are no large efforts to educate the million-plus attorneys in this country around how the law systematically enforces structures of power and privilege. What we have now is not working. Given that race and privilege are interwoven into almost every practice of law, what we are now doing – or not doing – is arguably malpractice.

White lawyers have to approach the problems and understand the system differently. Perhaps I would have been less presumptive about the journeys that my clients had taken. Perhaps I would simply have been a better listener if I had been willing to engage them, instead of playing on my terms. Perhaps I could have been more than just another well-intentioned white person.

In 2011, I left legal aid because of battle fatigue. I could no longer watch and bear witness to the lives of my clients. It was too hard. But I wonder now if it is so devastating to watch, what

must it be like to live those lives? What responsibility do we have to understand the ways that race and identity play into law, and to make that better? I have to believe that we all have some, and that that could be the way to make a difference.

Years later, I'd like to write to my former clients to tell them that I understand more now and it's getting better. But I can't honestly say that. There won't be true change until a different type of letter is written, by alumni of every law school in this country. That letter would start, "Dear Alma Mater: Please change what you are teaching. . ."

— Alecia Wartowski