

ESSAY

PROBLEMATIC PROBLEMS: THE CASE AGAINST MOCK TRIAL PROBLEMS INVOLVING RACIST SPEECH

*Todd A. Berger**

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INTRODUCTION

On September 5, 2021, I sent a racially insensitive fact pattern to the teams participating in the Syracuse National Trial Competition (SNTC). I did not write the fact pattern. However, I was responsible for distributing the pattern to the competing teams.¹ Protests, team threats to withdraw from the competition, and student-advocates’ refusals to participate started immediately thereafter and persisted for several days. Recognizing the hurt caused by the pattern and its negative impact on the competition, I made the decision to withdraw the pattern and replace it with a different problem five days later.

Over the course of those five days—and the weeks and months that followed—I spent a great deal of time asking myself the following question: Is there pedagogical

* Professor of Law and Director of Advocacy Programs at Syracuse University College of Law. A special thank you is owed to Professor Suzette Melendez, Associate Dean for Equity and Inclusion at Syracuse University College of Law, for her thoughtful comments and suggestions. An additional thank you is owed to Professors J.C. Lore, Alvaro Bellido de Luna, and Gary Pieples, as well as Tyler Jefferies and Joanne Van Dyke, for their important feedback. A thank you is owed as well to Penny Quinteros for her excellent research support.

1. The author is the pattern’s copyright holder. At the time of its distribution, I was unaware of offending language used in the pattern.

value to trial competition problems featuring characters who use racist speech?² And if so, do the potential harms resulting from the use of racist speech outweigh the value associated with such fact patterns?³

Notably, mock trial problems used in other relatively recent competitions have likewise featured bigoted characters using derogatory speech regarding sensitive issues of personal identification, including race.⁴ Whether it is appropriate for trial competition problems to address controversial societal issues has emerged as an important topic of discussion within the national trial advocacy community.⁵

Students will be justifiably offended when racist language is used in a trial competition problem because race is both a deeply personal issue and one that implicates

2. While certainly subject to debate, race may be defined as “[a] social construct that divides people into distinct groups based on characteristics such as physical appearance, ancestral heritage, cultural affiliation, and cultural history, ethnic classification, based on the social, economic, and political context of a society at a given period of time.” UW MED., UNIV. OF WASH., HEALTHCARE EQUITY GLOSSARY – RACE AND ETHNICITY: UW MEDICINE HEALTHCARE EQUITY 4 (n.d.), <http://depts.washington.edu/uwmedptn/wp-content/uploads/Healthcare-Equity-Glossary---Race-and-Ethnicity.pdf> [<http://perma.cc/9Z2R-ARPA>] (last visited May 1, 2022).

Racist speech is “language that is, and is intended as, persecutorial, hateful, . . . degrading,” and directed at an individual because of their race. Mari J. Matsuda, *Public Response to Racist Speech: Considering the Victim’s Story*, 87 MICH. L. REV. 2320, 2358 (1989). In this regard, the “primary identifier of racist speech” is that it “proclaims racial inferiority and denies the personhood of target group members.” It may be argued that racist language is not the same as racist speech. Racist language may involve the use of a specific racial slur or epithet. Racist speech may not involve racial epithets per se but may otherwise satisfy the broader definition of racist speech noted above. For the purposes of this Essay, the phrases racist language and racist speech are used interchangeably.

Beyond race, other issues related to personal identification—such as gender, ethnicity, disability, sexual orientation, and religion—are sensitive and controversial in both a law school setting and society at large. See Patti Alleva & Laura L. Rovner, *Seeking Integrity: Learning Integratively from Classroom Controversy*, 42 SW. L. REV. 355, 359 (2013). This Essay’s prescription for how to address language related to race in trial competition problems is likewise relevant to the topics identified above.

3. The specific issue addressed in this Essay bears some resemblance to a question posed by Professors Randall Kennedy and Eugene Volokh: “Is it wrong for professors to quote epithets in class or in other educational settings?” Randall Kennedy & Eugene Volokh, *The New Taboo: Quoting Epithets in the Classroom and Beyond*, 49 CAP. U. L. REV. 1, 1 (2021).

4. For example, the 2015 Tournament of Champions problem, which involved the trial of a white police officer for shooting a black man, used a racial epithet as well as other derogatory language regarding people of color. Problem on file with author at pages 13, 25. The 2018 problem for the same competition involved a gender discrimination case brought by a transgendered person and used derogatory and antitransgender language. Problem on file with author, *see* Ex. 16, 18–21. *See supra* note 2 (noting other controversial and sensitive areas of personal identification beyond race).

5. In their excellent podcast series—entitled *Unscripted Direct*, billed as a “Podcast for the Law School Trial Advocacy Community”—Spencer Phalke and Justin Bernstein address what they describe as “an issue in the trial ad world . . . to what extent should mock trial cases tackle really difficult societal issues?” *Season 1 Episode 5 – Adam Shlahet*, UNSCRIPTED DIRECT (Sept. 15, 2021) [hereinafter *Podcast*], <http://www.unscripteddirect.com/#episodes> [<http://perma.cc/5DB5-EBK3>]; *About*, UNSCRIPTED DIRECT, <http://www.unscripteddirect.com/#about> [<http://perma.cc/L99F-XREB>] (last visited May 1, 2022). Spencer Phalke is a lecturer at the University of California Berkeley School of Law and directs Berkeley’s external trial competition program. Justin Bernstein is the Director of Trial Advocacy at the University of California, Los Angeles School of Law. *About*, UNSCRIPTED DIRECT, *supra*.

broader societal questions related to fairness and equality.⁶ Recognizing such and drawing on my own experiences with the Syracuse fact pattern, as well as conversations with others in the trial advocacy community, this Essay posits that the potential harms caused by patterns using racist language outweigh whatever assumed benefits they might bring to the student advocacy experience.

To be clear, I am not per se opposed to trial competition problems that involve questions related to race. Certainly, the issue of race exists in the real world and law students—who will one day become lawyers—must practice there. Consequently, trial competition problems need not be hermetically sealed off from the world itself or otherwise exist in an idealized setting that bears little resemblance to the one in which cases are tried. Further, an absolute rule mandating race-neutral trial competition problems risks minimizing the importance of an issue that many students of color may view as central in their own lives.⁷

Nevertheless, to what extent it is appropriate for trial problems to incorporate themes related to race more generally and how that task can be best accomplished are considerations beyond the scope of this Essay. Indeed, those precise questions are best suited for thorough exploration in future works. Rather, this Essay addresses the narrower issue of using racist speech in mock trial problems.

In doing so, this Essay proceeds in two Sections. Section I describes the 2021 SNTC problem in greater detail, as well as the circumstances leading up to its eventual withdrawal. Section II argues that racist speech should be eliminated from trial competition fact patterns. The primary purpose of a mock trial competition is to train students to be persuasive courtroom advocates.⁸ Because that goal can be accomplished with fact patterns that do not involve race-related, derogatory statements, trial competition problems should not use racially offensive language.

I. THE FACT PATTERN AND ITS AFTERMATH

The (original) 2021 Syracuse National Trial Competition problem was entitled *United States of America v. Avery N. Wilson*.⁹ The problem involved Avery Wilson, a

6. See Charles J. Ogletree, Jr., *The Conference on Critical Race Theory: When the Rainbow Is Not Enough*, 31 NEW ENG. L. REV. 705, 706 (1997) (observing that “racial identity . . . is personal” and that it “affects . . . people of color, on a personal level and how we are perceived”); Audrey Smedley, “Race” and the Construction of Human Identity, 100 AM. ANTHROPOLOGIST 690, 690 (1998), <http://www.jstor.org/stable/682047> [<http://perma.cc/3WAK-7NX9>] (“‘Race’ emerged as the dominant form of identity in those societies where it functions to stratify the social system.”).

7. By way of analogy, some scholars posit that eliminating discussion of race and gender from the first-year law school curriculum “may further alienate students of color and female students from the learning process because many of these students see these issues as central to their own lives rather than excessively race- or gender-focused.” See Meera E. Deo, Maria Woodruff & Rican Vue, *Paint by Number? How the Race and Gender of Law School Faculty Affect the First-Year Curriculum*, 29 CHICANA/O-LATINA/O L. REV. 1, 11 (2010).

8. See discussion *infra* Part II.B.1, II.B.3.

9. Syracuse National Trial Competition Fact Pattern, *United States of America v. Avery N. Wilson*, Sept. 5, 2021 [hereinafter *Fact Pattern*] (on file with author). This Essay’s references to the “SNTC fact pattern” or “trial problem” refer to the first problem sent on September 5, and not the replacement problem sent out sometime later.

defendant, being charged with two federal crimes.¹⁰ Wilson was indicted under 18 U.S.C. § 241 (Conspiracy Against Rights) and 18 U.S.C. § 245 (Infringement of Federally Protected Activities).¹¹

In relevant part, 18 U.S.C. § 241 makes it unlawful

[for] two or more persons [to] conspire to injure, oppress, threaten, or intimidate any person in any State, Territory . . . or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or the laws of the United States, or because of his having so exercised the same.¹²

As summarized by the fact pattern, a defendant can be charged under 18 U.S.C. § 245

if s/he [1] takes action or causes another to take action on the person's behalf, [2] by force, by threat of force or willfully attempts to injure, intimidate or interfere with a person, [3] because the person is entitled to or has been participating in or enjoying any benefit, service, privilege, program, facility, or activity provided or administered by the United States based on that person's race, color, religion, sexual orientation, gender or national origin.¹³

Due to the nature of the charges, the government was seeking enhanced sentencing of the defendant under Federal Hate Crime laws.¹⁴

A trial competition problem involving hate crimes will necessarily involve race, color, religion, sexual orientation, gender, or national origin. The hypothetical circumstances giving rise to the SNTC problem, however, swept in a range of other controversial topics in addition to race.¹⁵ To that end, the fact pattern, set in February 2021, was based on an amalgamation of anti-Asian bias resulting from the COVID-19 pandemic,¹⁶ the storming of the U.S. Capitol complex on January 6, 2021,¹⁷ and the far-right political movement/internet conspiracy theory known as QAnon.¹⁸

10. *Id.*

11. *Id.* at 1.

12. 18 U.S.C. § 241.

13. See *Fact Pattern*, *supra* note 9, at 2 (summarizing the elements of the offense); see also 18 U.S.C. § 245.

14. *Fact Pattern*, *supra* note 9, at 1. The Federal Hate Crimes Act is located at 18 U.S.C. § 249.

15. See generally *Fact Pattern*, *supra* note 9.

16. See Jonathon P. Schuldt, Peter K. Enns, Katherine Zaslavsky & Byungdoo Kim, *Americans Aren't Learning About Anti-Asian Bias. We Have the Data*, WASH. POST (Apr. 23, 2021), <https://www.washingtonpost.com/politics/2021/04/23/americans-arent-learning-about-anti-asian-bias-we-have-data> [<http://perma.cc/DJ4P-L6AK>] (“Since the coronavirus pandemic began, Asian, Asian American and Pacific Islander communities have endured a spike in hate crimes. . . . [m]any leaders, including President Biden, have suggested that racist rhetoric used to describe the pandemic helped prompt such attacks.”).

17. On January 6, 2021, individuals disrupted a joint session of the U.S. Congress while it was counting electoral votes to certify the results of the 2020 presidential election. *Eight Months Jan 6 Attack Capitol*, U.S. ATT’Y OFF. D.C., DEP’T OF JUST. (Oct. 12, 2021), <http://www.justice.gov/usao-dc/eight-months-jan-6-attack-capitol> [<http://perma.cc/N4VX-VZCZ>].

18. “QAnon is the umbrella term for a set of internet conspiracy theories that allege, falsely, that the world is run by a cabal of Satan-worshipping pedophiles.” Kevin Roose, *What Is QAnon, the Viral Pro-Trump Conspiracy Theory?* N.Y. TIMES, (Sept. 3, 2021), <http://www.nytimes.com/article/what-is-qanon.html> [<http://perma.cc/A43K-5V7C>]. “Q” posts on internet message boards and QAnon’s earliest adherents were mainly far-right supporters of Donald Trump. *Id.*

A. *The Fact Pattern in Detail*

The fact pattern was set in the city of Redwood, in upstate New York.¹⁹ According to the case summary presented in the pattern:

Over the past five to ten years, Redwood has attracted a growing immigrant population, and the population of Asian-American immigrants has become a significant majority of the immigrant population. As a result, the Mayor of Redwood instituted several immigrant focused initiatives, including constructing a building to house a Community Immigration Office and Resource Complex to provide employment, educational, and citizenship resources. This building is called the Immigration Complex.

In 2020, as Covid-19 besieged the United States, animosity toward Asian-Americans increased nationally. Several online groups sprouted with anti-Asian and xenophobic ideas. One of those groups was on a news and social commentary website called “Read-it.” The group, called “Alpha-non,” spread racist theories about Asian-Americans and immigrants. The group’s leader, called “the Alpha,” had an online profile that incited followers to channel their anti-Asian and xenophobic feelings toward the Asian-American and immigrant community in Redwood. While the Alpha’s online activities inspired violence, it was never directly linked to an act of violence until February 19, 2021.

On February 19, 2021, the Alpha used the Alpha-non website to direct a large group of Alpha-nons to execute “Order 9066.” Specifically, Order 9066 directed the Alpha-nons to organize and storm the Immigration Complex. Over 100 people (all adults) rioted and stormed the Immigration Complex, wearing hats or clothing with the word Alpha-nons on them. While the local police responded, every person present at the riot escaped and have not been located or arrested. As a result of the riot, the ten police officers who responded to the scene were injured, and the cost of repairing the damage to the Immigration Complex was over \$200,000. The Immigration Complex was not fully repaired until August 2021, when the Immigration Complex was finally able to open its doors.

The FBI opened an investigation, and located a witness, who identified the person who directed the Alpha-nons to storm the Immigration Complex. The witness identified the Alpha as being the defendant, Avery N. Wilson. The FBI investigated the defendant and located data on her/his computer, laptop, and cell phone, which the prosecution claims is evidence establishing the defendant as being the Alpha.

The defendant [who is charged with the offenses previously identified] admits to being an Alpha-non believer, but denies conspiring to orchestrate, lead or incite the Alpha-nons to riot and storm the Immigration Complex. The defendant claims another member of Alpha-non was the Alpha, Quinn [G. Hope], who law enforcement originally suspected as being the Alpha. Further, the defendant was in Texas at the time of the riot.²⁰

19. The actual town of Redwood, New York, sits seventy miles north of Syracuse. There is no information indicating why the problem was set in Redwood.

20. *Fact Pattern*, *supra* note 9, at 1.

Student advocates were required to both defend and prosecute the case. The prosecution was only permitted to call the following as witnesses: (1) Alex J. Jimenez, the FBI Bureau Chief of the Cyber Security Task Force; and (2) Quinn G. Hope, the person the FBI first suspected as being the Alpha. The defense was only permitted to call the following as witnesses: (1) the defendant, Avery N. Wilson; and (2) Wolf I. Phillips, a friend of the defendant and the Alpha-non Oracle.

As the case summary makes clear, Avery Wilson's most obvious defense is that he is not the Alpha and did not direct the riot at the immigration center. Instead, the real Alpha is Quinn G. Hope, who not only put the plan to storm the center in motion but also set up Wilson to take the fall. The government's position is that Wilson (as the Alpha) ordered the storming of the immigration center. Further, the mock indictment also states that Wilson "attempted to frame Quinn G. Hope as being the Alpha" and enlisted "one or more persons to set fire to the apartment of Quinn G. Hope in an effort to keep her/him from reporting the defendant to the authorities."²¹

For the purposes of this Essay, the government's proffered evidence is most relevant. The pattern contains several instances of anti-Asian and anti-immigrant rhetoric and inflammatory language uttered by Avery Wilson.²² Per the pattern, Wilson's statements are offered by the government to prove Wilson's motive and identity.²³ Presumably, because the statements reflect Wilson's anti-Asian and anti-immigrant bias, the statements prove Wilson had the motive to order the storming of the immigration center. Wilson's motive, in turn, makes it more likely that he is in fact the Alpha who incited the Alpha-nons to riot.

One such example includes a statement made by Wilson at a public meeting in which Wilson expressed his opposition to the construction of the immigration center. At that meeting, Wilson stated:

Well, I'm Avery Wilson, I'm a citizen and I'm thinking that the China Complex doesn't constitute progress. It's going to bring more Coronas to our city. Look what's happened already. Our city, our country, our American way of life is under attack because of the Corona virus. Do you want more of them coming here to spill their germs into our airways, ravage us body and soul, and crush our freedom as real Americans. That's was [sic] the Coronas have and will continue to do to us. Don't you see that.²⁴

The pattern further contains other anti-Asian and -immigrant internet conversations posted on the Read-it website. Per the pattern, the statements—even when not made by Wilson—are relevant because they "constitute statements made by co-conspirators" and

21. *Id.* at 11.

22. To avoid unnecessarily offending readers, I will not provide a list of every offensive statement contained in the pattern. However, this work will identify specific statements to the extent that doing so illustrates a particular point related to use of mock trial problems involving racist language.

23. See *Fact Pattern*, *supra* note 9, at 12. This argument is explained in a mock court order denying the defendant's motion to preclude the statements as a prior bad act under Rule 404(b) of the Federal Rules of Evidence. See FED. R. EVID. 404(b).

24. *Fact Pattern*, *supra* note 9, at exhibit 3.

demonstrate “the racial prejudice that is probative for the hate crime element of the trial.”²⁵ For example, one message posted on the Read-it website read as follows:

AlphaGod1 replied, our city, our country, hell, American life is under Attack. Real Americans suffer so those rice paddies with their diseases and their poverty can come over here on our dime, cook that food and watch us die. It’s bigger than COVID because COVID is just the tip of the Iceberg. Half the time these people come into our country ILLEGALLY while us real AMERICANS can’t exercise our rights without 55 permits, background checks. I mean hell you have a right to bear arms in the constitution, but you can barely get a hunting rifle without jumping through 60 forms of background check, meanwhile the come here illegally and we build them a state of the art complex with OUR money. WE built it for them. That’s why I created Alpha because this isn’t going to the end. This is only the beginning. A war for the soul of America and I’ll be damned if I just sit by without raising forces to fight back.²⁶

What is noteworthy about the problem’s construction is that to prosecute the case, practically speaking, student advocates and witnesses would have to repeat the above statements (as well as others like it) out loud during trial team practices and during the actual competition itself. For example, to most effectively show Wilson’s motive to attack the immigration center and to establish the elements of the hate crime statute, the student playing the prosecutor might read the racist statement uttered at the public meeting and ask Wilson to confirm whether he did in fact make the statement. If the student playing Wilson denied doing so, he might be impeached, requiring the witness (or the prosecutor) to read aloud once again the transcript from the meeting. For the same reasons, the prosecution might ask the witness playing Quinn Hope to repeat the racist statements made by Wilson and would most certainly ask the FBI agent to read the racist message board statements attributed to members of the conspiracy.

B. *The Aftermath*

Almost immediately after the problem’s release, teams began to voice their disagreement and concern.²⁷ In short, the content of the pattern was viewed as unnecessarily divisive because it involved issues of racism, immigration, and blaming COVID-19 on Asian persons (in addition to the previously noted statements, the pattern also contained three references to the “China Flu”).²⁸ The pattern and its racist language proved particularly upsetting to students of color, although students who do not identify as a member of the impacted group could certainly have been offended.²⁹ A further objection was raised regarding the problem’s drawing of parallels to politically divisive

25. This line of reasoning is advanced in the order denying the defendant’s motion to exclude the statements as inadmissible hearsay under Federal Rules of Evidence 801 and 802. *See* FED. R. EVID. 801, 802.

26. *Fact Pattern*, *supra* note 9, at exhibit 5.

27. Unless otherwise specifically authorized, I will protect the confidentiality of those who spoke to me regarding the pattern, regardless of whether they viewed the pattern positively or negatively.

28. *Fact Pattern*, *supra* note 9, at 20–22.

29. *See, e.g., infra* notes 34–37 and accompanying text. Additionally, this point of view was further expressed in conversations with both coaches and students at my own institution.

topics such as the January 6 uprising.³⁰ Beyond the January 6 analogy, the problem also used the slogan “#StoptheSpill,”³¹ which was a thinly veiled reference to the “#StoptheSteal” movement launched in relation to the 2020 presidential election.³² The “Spill” portion of the slogan refers to Wilson’s speech in which he states that “Coronas” are coming to America “to spill their germs into our airways.”³³ In short, for the reasons outlined in Section II, the objectors believed it was unnecessary to use a fact pattern containing racially offensive language coupled with hypercharged political issues.

On September 7, 2021, two days after the pattern was released, the law school received an e-mail from an individual’s Gmail account protesting the problem packet.³⁴ That person stated they had a roommate attending law school who was Asian.³⁵ The problem caused their roommate to have several panic attacks because it forced them to relive trauma from their life.³⁶ Two days later, on September 9, a coach informed me that an Asian American student on their team withdrew from the competition because the subject matter of the problem caused them significant discomfort.³⁷

Certainly, we did receive positive feedback regarding the problem. Some viewed it as timely and others as challenging but worthwhile.³⁸ Nevertheless, with teams expressing a desire to withdraw from the competition and at least one student (that I knew of) dropping out due to the trauma caused by the fact pattern, I decided to formally withdraw the problem on September 10. In relevant part, I informed the teams as follows:

Over the past few days we have heard from several teams expressing concern regarding the content of this year’s SNTC fact pattern. *Accordingly, we are formally withdrawing this year’s SNTC fact pattern*

As you know, in practice, lawyers can be asked to defend clients whose views and acts are deeply troubling. Although trial competitions reflect the realities of practice, their primary purpose is to help our students learn to be the best trial advocates possible. We recognize this year’s fact pattern proved offensive to many and does not serve the primary educational

30. This specific objection was raised by a team’s coach in an email sent on September 6, 2021. While the e-mail is on file with the author, the coach expressed his desire to keep his correspondence confidential.

31. *Fact Pattern*, *supra* note 9, at Ex. 2; *see also supra* note 24 and accompanying text (the use of the word “spill” in Avery’s statement at the public meeting).

32. “Stop the Steal” is the name of a nationwide protest movement focused on overturning then-President elect Joe Biden’s win in the 2020 election based on unsubstantiated claims of voter fraud. Micahel Edison Hayden, *Law Firm Tied to Far-Right Fringe Registers Stop the Steal LLC in Alabama*, S. POVERTY L. CTR. (Dec. 18, 2020), <http://www.splcenter.org/hatewatch/2020/12/18/law-firm-tied-far-right-fringe-registers-stop-steal-llc-alabama> [<http://perma.cc/FEW4-XS8F>].

33. *Fact Pattern*, *supra* note 9, at Ex. 3.

34. Email from anonymous author to Dean Craig Boise, Syracuse Univ. Coll. of L. (Sept. 8, 2021, 1:45 PM) (on file with author).

35. *Id.*

36. *Id.*

37. I do not know whether the student described in the email is the same student who withdrew from the competition.

38. Email from trial team coach (Sept. 9, 2021) (on file with author).

purpose of trial competition. We sincerely regret the hurt the fact pattern caused³⁹

Later in the fall semester, an anonymous individual filed a complaint against me using a Syracuse University hotline established to report bias or hate related incidents.⁴⁰

II. RACIST SPEECH IN MOCK TRIAL PROBLEMS

The use of racist speech in mock trial problems harms the student learning experience far more than it benefits future advocates. The Parts that follow demonstrate this point by weighing whatever value might be derived from such fact patterns against the substantial drawbacks associated with their uses.

A. *Inclusivity and Mock Trial Competitions*

As legal educators, special care and attention must be devoted to how we create the student learning experience. In this regard, my opposition to fact patterns containing racist speech begins with the view that any law school educational experience should reflect the value of inclusivity. Simply put, mock trial problems containing racist speech profoundly undermine that goal.

There are two discrete aspects of inclusivity to consider when evaluating mock trial competitions. First, trial competitions should not unnecessarily create obstacles to student participation that in turn reduce the number of students who may benefit from the educational experience. Second, “inclusive teaching” should be equitable teaching.⁴¹ To that end, in the words of one commentator, inclusive teaching entails creating “a climate that helps all students, especially minority and low-income students, thrive.”⁴² Using this definition, those involved in mock trial competitions should endeavor to teach trial skills inclusively. In sum, an inclusive learning experience is one in which students feel equally valued in the learning process and in which all students can effectively learn.⁴³

39. Email from Todd A. Berger, Prof. of Law, Syracuse Univ. Coll. of L., to participants in the Syracuse National Trial Competition (Sept. 10, 2021, 9:35 PM) (on file with author).

40. See, e.g., *STOP Bias and Hate*, SYRACUSE UNIV., <http://www.syracuse.edu/life/accessibility-diversity/stop-bias> [<http://perma.cc/3T5N-QJVU>] (last visited May 1, 2022) (bias reporting portal). As of this writing, the university has taken no formal action against me. Of note, if formal action were to be taken against the writer of a mock trial problem, or the faculty member who distributed the problem for educational purposes, doing so could potentially implicate questions of academic freedom. See AMERICAN ASSOCIATION OF UNIVERSITY PROFESSORS, 1940 STATEMENT OF PRINCIPLES ON ACADEMIC FREEDOM AND TENURE: WITH 1970 INTERPRETIVE COMMENTS 14 (n.d.), <http://www.aaup.org/file/1940%20Statement.pdf> [<http://perma.cc/4AC2-D77M>].

41. See Jamie R. Abrams, *What Inclusive Instructors Do*, Tracie Marcella Addy, Derek Dube, Khadijah A. Mitchell, and Mallory E. SoRelle (Stylus Publishing 2021), 222 Pages, 26 LEGAL WRITING 209 (2022), http://www.legalwritingjournal.org/article/31633-_what-inclusive-instructors-do_-tracie-marcella-addy-derek-dube-khadijah-a-mitchell-and-mallory-e-sorelle-stylus-publishing-2021-222-pages [<http://perma.cc/7LS5-WWPG>] (“Inclusive teaching is equitable, giving all students an opportunity to achieve their potential. Further, inclusive teaching is welcoming, leaving all students feeling a sense of belonging.”).

42. Taifha N. Baker, *How Top Law Schools Can Resuscitate an Inclusive Climate for Minority and Low-Income Law Students*, 9 GEO. J.L. & MOD. CRITICAL RACE PERSP. 123, 148 (2017).

43. See *supra* note 41 and accompanying text.

Fact patterns that use racist speech are anti-inclusive and devaluing. In this sense, it is important to note that such patterns, as the SNTC fact pattern demonstrates, almost always (1) require student advocates and witnesses to use racist speech as part of trying the case, and (2) subject students to the offensive ideas and characterizations represented by such language while preparing for the competition. For the reasons explained below, these types of fact patterns are an affront to an inclusive educational experience.

With respect to unnecessarily erecting barriers to participation, it is probable that students—regardless of their race—will feel incredibly uncomfortable uttering racist phrases in general, let alone in the public settings in which most trial competitions take place (especially if those competitions are being videotaped).⁴⁴ In this regard, student reluctance to engage with fact patterns using racially insensitive language is likely to emerge as area of concern. For example, law students concerned about post-graduation employment will be loath to say in public, “[r]eal Americans suffer so those rice paddies with their diseases and their poverty can come over here on our dime, cook that food and watch us die.”⁴⁵

Moreover, apart from post-law school employment concerns, there are likely many students who, in any circumstance, would simply feel disgusted by having to use racist language. Further, even if an individual student had no objection to repeating racist statements while playing a role in a mock trial competition, for the reasons just stated, that view is not one universally held by their peers. Taking both of the assumptions above as true, a rift may develop between students who are willing to participate in the competition and those who find participation racially insensitive. To that end, it is doubtful many law students want their peers to view them as racially insensitive. Considering the above concerns, student willingness to participate in trial competitions

44. By way of analogy, in the movie *The Paperboy*, actress Nicole Kidman refused to use an offensive racial epithet when requested to do so by the film’s director; the actress had been asked to say “the n-word.” *Nicole Kidman Refused To Say ‘N-Word’, Co-Star Reveals*, BBC NEWS (Feb. 14, 2013), <https://www.bbc.com/news/entertainment-arts-21456986> [http://perma.cc/6FFJ-VVZ6]. According to her co-star, David Oyelowo, Kidman refused, feeling it was “a bridge too far.” *Id.* Oyelowo, who is of Nigerian descent, stated, “I really respect her for doing that.” *Id.* Further, actor Leonardo DiCaprio expressed being uncomfortable on the set of the movie *Django Unchained* because his character had to use racial slurs. Rishma Dosani, *Leonardo DiCaprio Had Problem Saying ‘N-Word’ in Django Unchained Until Jamie Foxx and Samuel L. Jackson Forced Him To*, METRO (Nov. 22, 2019, 11:03 AM), <https://metro.co.uk/2019/11/22/leonardo-dicaprio-problem-saying-n-word-django-unchained-jamie-foxx-samuel-l-jackson-forced-11200400> [http://perma.cc/6FFJ-VVZ6]. DiCaprio ultimately relented and agreed to use the racial slur as part of the film. *Id.* However, according to actor Jamie Foxx, “there was a point himself and Samuel L. Jackson had to force their co-star to utter the n-word, on the set of the 2012 film.” *Id.* Both Foxx and Jackson are African American. *Id.* Famed director Spike Lee reported that white actors in his movie *BlacKkKlansman* “had problems saying the ‘N’ word.” Michele Manelis, *Spike Lee: BlacKkKlansman’s White Actors ‘Had Problems Saying the ‘N’ Word’*, NZ Herald (Aug. 15, 2018, 8:00 PM), <http://www.nzherald.co.nz/entertainment/spike-lee-blackklansmans-white-actors-had-problems-saying-the-n-word/MS3PPMECS72JBG7FFUNIE3VQYU> [http://perma.cc/L3PX-TQMG]. And in *Bel-Air* (a reprisal of the popular 1990’s sitcom *The Fresh Prince of Bel-Air*), Tyler Barnhardt felt uncomfortable using a racial slur as part of a locker room scene in which white students used racist language. Ayomikun Adekaiyero, *‘Bel-Air’ Star Olly Sholotan Says a Scene Where a Group of White Students Sings a Song with a Racial Slur Made an Actor Uncomfortable To Participate In*, INSIDER (Feb. 27, 2022, 5:19 AM), <http://www.insider.com/bel-air-olly-sholotan-racial-slur-scene-2022-2> [http://perma.cc/3J3V-G98W].

45. See *supra* note 26 and accompanying text.

featuring racist speech is likely to be diminished, and with it, a possible opportunity to learn from the mock trial experience.

Additionally, racist statements (such as those found in the SNTC problem) can deeply offend and even traumatize students—and students of color in particular.⁴⁶ At best, some students may refuse to participate rather than spend their valuable time being personally abused on account of their race or watching the same occur to a classmate. Other students, such as the one who withdrew from the SNTC because of the panic attacks brought on by the problem’s anti-Asian sentiments,⁴⁷ may find continued participation too traumatizing to justify their ongoing involvement.⁴⁸ An inclusive mock trial experience is one that welcomes all students. A competition problem that risks insulting or emotionally harming students on account of their race (or other characteristics of personal identification, for that matter) fails to provide that inclusive experience.

46. In their work *The New Taboo: Quoting Epithets in the Classroom and Beyond*, 49 CAP. U. L. REV. 1 (2021), Professors Randall Kennedy and Eugene Volokh recount several instances in which students reported the use of racist language impacted their ability to learn. *See id.* at 49 n.171. In one instance, a professor’s writing of an epithet on a class whiteboard—part of the name of a Tupac Shakur song—was characterized as a “re-traumatization” for students of color. *See, e.g.*, Shayla C. Nunnally, *News: The Pejorative Meaning of an Epithet*, <http://africana.utk.edu/news/epithet.php> [<http://perma.cc/HVL6-W76R>] (last visited May 1, 2022). Another incident involved the vocalization of the n-word in a university’s literature class when quoting from Ann Petry’s *The Street* (1946), and “how this problematic word evoked racial trauma in one student.” Lexi Gee & Sarah Wood, *A Collaborative Dialogue on the N-Word in a University Classroom*, 28 TRANSFORMATIONS 210, 210 (2018). In another incident, a professor used a Chinese word that sounded like the n-word but was the English equivalent of a filler word like “um”; an email from the University of Southern California Marshall School of Business dean stated that it was a “disturbing episode that has caused such anguish and trauma.” Marc Ethier, *USC Marshall Prof Replaced After Using a Chinese Term That Sounds Similar to the N-Word*, POETS & QUANTS (Sept. 4, 2020), <http://poetsandquants.com/2020/09/04/usc-marshall-prof-suspended-after-using-a-chinese-term-that-is-similar-to-the-n-word/2> [<http://perma.cc/NL2Z-6KNM>]. Additionally, black students at the University of California, Irvine law school were so “traumatized by the events [of a UC Irvine law professor using the ‘n-word’ as a part of a class discussion] that they were unable to attend classes last week.” *Tweet: Georgetown BLSA (@GeorgetownBLSA)*, TWITTER (Sept. 8, 2020, 12:43 PM), <https://twitter.com/GeorgetownBLSA/status/1303373411306135557> [<http://perma.cc/3LK5-TVPC>]; *see also infra* note 48.

47. *See supra* Part I.B (discussion between coach and author regarding student withdrawing from SNTC).

48. Some scholars have questioned whether hearing a racial slur by itself causes trauma. *See* Kennedy & Volokh, *supra* note 3, at 50 (observing that they are not “aware of any studies that purport to demonstrate that simply hearing [a particular racial epithet] causes ‘trauma,’ damages ‘mental health,’ or causes ‘emotional exhaustion’”; and further asserting that the claim that adult students cannot learn as well when they encounter particularly offensive racial epithets “strike[s] us as both improbable and counterproductive”). Regardless, according to the email sent to Syracuse Law School regarding SNTC, at least one student was traumatized by the fact pattern. *See supra* note 34 and accompanying text. One law school exam at the University of Illinois Chicago contained written references to “n _____” and “b _____” in a fact pattern, with the underlines and not fully spelled out. Kathryn Rubino, *Law School N-Word Controversy Is More Complicated Than It Appears at First Glance*, ABOVE THE L. (Jan. 13, 2021, 4:53 PM), <http://abovethelaw.com/2021/01/law-school-n-word-controversy-is-more-complicated-than-it-appears-at-first-glance> [<http://perma.cc/MMK9-3VSA>]. The use of such words was condemned by a law school dean and by students as “deeply offensive,” “caus[ing] hurt and distress,” and producing “mental trauma.” *See* Kennedy & Volokh, *supra* note 3, at 29 (alternation in original).

Spencer Phalke, director of Berkeley School of Law's external trial competition program, observed that learning to be a trial lawyer is "an incredibly difficult thing."⁴⁹ To that end, the process of learning new and difficult advocacy skills is frustrated when students must learn those skills "while at the same time dealing with a subject matter that can be hurtful."⁵⁰ Thus, because fact patterns using racist speech do not create a climate that helps "all students, especially minority and low-income students, thrive,"⁵¹ such patterns violate a central tenant of inclusive teaching.⁵²

One may argue that trial problems containing numerous instances of racist speech are more likely to adversely impact the student experience than patterns in which racist speech is used more sparingly. I am unwilling to entertain the invidious argument that a threshold level of racial insensitivity is appropriate—the only question being the point at which the pattern contains *too* much racist speech. Said differently, it is unlikely students will find derogatory language not particularly offensive because it is uttered less than a specific number of times, or that students are willing to say a racial slur once, but not twice.

B. *The Educational Value of Racist Speech Versus the Harm*

Even recognizing that mock trial problems containing racist speech may reduce student participation and affect learning, some may nevertheless object to a general rule that trial problems should not contain such language. Opponents of such a rule may argue that fact patterns in which racist characters make racist statements do indeed have pedagogical and advocacy training value.

Regardless of whatever value such patterns have, some might suggest the use of patterns containing racist speech cannot be justified in any circumstance. To this point, all law students (in the case of intercollegiate trial teams, assuming they meet the requisite talent level required for selection) should be able to learn trial advocacy through participating in trial competitions. The price of learning trial advocacy through mock trial should never involve the use or experience of racist speech.

Assume, however, that one does not favor a per se ban on fact patterns in which racist language is used. Under this view, in any given instance, the pedagogical value of a fact pattern using racist speech may justify its use in a mock trial competition. I disagree. For the reasons detailed below, whatever benefit such problems may carry does not, overall, legitimize the use of racist language.

1. Advocacy Skills

There are racist people in the real world who use racist language. Because fact patterns containing racially offensive language mirror the real world, they may help train future trial lawyers how to best try cases in which reprehensible persons say reprehensible things. In other words, one may argue that fact patterns containing racially

49. *Podcast*, *supra* note 5, at 5:10.

50. *Id.*

51. Baker, *supra* note 42, at 148.

52. As the reader may have noticed, the argument regarding students' concerns about having to make racist statements comes before the Part related to the emotional impact of the racist speech. That order is not meant to minimize the significance of student distress.

offensive language have value from a trial advocacy perspective because they create an opportunity for students to identify the most effective techniques for representing individuals who use hateful language and harbor hateful views.⁵³

Of course, any given lawyer may have a case involving an individual who has said abhorrent things about race or other sensitive topics.⁵⁴ Assuming those statements are admissible in evidence, how should an effective trial lawyer address the issue with a jury?

For example, with respect to the SNTC fact pattern, should the defense best address their client's views by openly acknowledging the client is not a likable person (to say the least) and one who made offensive statements? In doing so, the defense may remind the jury that finding the defendant not guilty is not an endorsement of the defendant's views but merely a reflection of the government's not having met its burden of proof. Or does it make the most sense to avoid referencing the client's racism, believing almost any mention of the client's belief system makes it more likely the jury will resist acquitting the defendant?

Certainly, a pattern containing racist speech creates opportunities for student advocates to develop the types of advocacy techniques needed to represent clients like Avery Wilson. But for many lawyers, Avery Wilson is not the typical client. To that end, as stated by Spencer Phalke when discussing the role of mock trial cases, the "first goal is to make great trial lawyers and that means somebody who can put together a great theme and theory, who can put together that cross and that direct and the opening and closing statement[s]."⁵⁵ I would add to Mr. Phalke's view (or perhaps, merely rephrase it) that trial competitions, in general, are opportunities for law students to strengthen the essential advocacy skills used by trial lawyers. Essential advocacy skills consist of "direct and cross-examination of lay and expert witnesses, the introduction of exhibits, opening statements and closing arguments."⁵⁶

In this regard, learning how best to represent racist clients is not an essential advocacy skill. One day, a lawyer *may* represent a client like Avery Wilson. However, it is far more important that law students learn how to effectively use the foundational

53. *Podcast, supra* note 5, at 4:30 (describing how a goal of mock trial competitions is to instill good trial techniques in students that can be used in their career as litigators).

54. Perhaps the lawyer is privately retained and compensated financially by the client. Or perhaps, in a criminal matter, a lawyer is appointed by the court to defend a client who has said racially offensive things. In such an instance, representing a particular client is somewhat compelled. Model Rule of Professional Conduct 6.2 provides the following:

A lawyer shall not seek to avoid appointment by a tribunal to represent a person except for good cause, such as: (a) representing the client is likely to result in violation of the Rules of Professional Conduct or other law; (b) representing the client is likely to result in an unreasonable financial burden on the lawyer; or (c) the client or the cause is so repugnant to the lawyer as to be likely to impair the client-lawyer relationship or the lawyer's ability to represent the client.

Refusing representation on the grounds that the client is "repugnant" to the client is addressed in greater detail, *infra* notes 63–66.

55. *Podcast, supra* note 5, at 4:30.

56. Edward D. Ohlbaum, *Basic Instinct: Case Theory and Courtroom Performance*, 66 TEMP. L. REV. 1, 3–4 (1993). Of note, in addition to teaching basic advocacy skills, "[t]he competitive environments of Trial Practice courses and mock trial competitions provide laboratories for learning ethics." Stephen D. Easton, *Why Teach Trial Practice When There Are "No" Trials?*, 50 U.S.F. L. REV. 1, 7 (2016).

techniques of persuasion identified above. That task can certainly be accomplished without using a fact pattern containing hurtful language. Accordingly, it makes little sense to create a trial problem that reduces student participation and negatively impacts student learning to teach nonfoundational advocacy skills at the law school level.

2. Preparing Students To Handle Trauma

While not addressing mock trial problems specifically, Professors Randall Kennedy and Eugene Volokh argue that “[c]lients expect lawyers to work at full effectiveness even when they encounter unpleasant material, whether in documents or witness interviews or courtroom arguments; law schools should train law students to do the same.”⁵⁷ Building on this point, they posit that “the job of a professional school is not to shield students” from potentially disturbing content but rather “to train students to ‘retain a state of equanimity’ when dealing with these matters as calmly as possible—something that ‘can only be achieved through careful and supported deliberate “exposure” to potentially traumatic material.’”⁵⁸

Translated into the trial practice setting, it follows that mock trial problems containing racially offensive and potentially traumatic material can help effectively train students to handle such cases in the real world if the material is in line with Professors Kennedy and Volokh’s theory of “careful and supported deliberate exposure.” Presumably, working through the trauma and offense involved with racist speech in a controlled educational setting better prepares students for when they may encounter such cases in real courtrooms as attorneys.

Certainly, the point made by Professors Kennedy and Volokh is well taken. However, in the context of learning trial advocacy, as Professor Justin Bernstein observes, schools choose to participate in mock trial competitions without knowing the content of the pattern in advance.⁵⁹ As such, with respect to potentially controversial trial problems, while recognizing the “value” in problems that “push students,” Professor Bernstein is troubled by the lack of an “opt-in” process for hosted competitions.⁶⁰

When students choose to participate in mock trial, even if they do not know the content of the trial problem beforehand, they have certainly opted in to an experience designed to hone essential advocacy skills.⁶¹ It is unlikely, however, that students expect

57. Kennedy & Volokh, *supra* note 3, at 50.

58. *Id.* at 51–52.

59. *Podcast*, *supra* note 5, at 8:15. As noted *supra* note 5, Professor Bernstein is the Director of the Trial Advocacy Program at the University of California, Los Angeles.

60. *Podcast*, *supra* note 5, 6:20, 8:15. I do not mean to suggest that in his podcast discussion regarding potentially challenging trial problems Professor Bernstein expressly stated his position regarding the subject matter of this Essay. Rather, Professor Bernstein’s “opt-in” observation has helped inform my view regarding fact patterns containing racially charged language.

61. For example, an overview of the Seton Hall Law School Mock Trial Program states as follows:

The Seton Hall Law Mock Trial Program . . . enables Seton Hall Law students to hone their trial skills by putting them into practice competitively. Students learn how to conduct a trial from opening statements to direct and cross-examination to closing arguments, in preparation for their participation in national interscholastic mock trial competitions.

the problem will require them to use racist language or will prove emotionally damaging on account of race. Consequently, because students have not opted in to such an experience, it is wrong to subject them to such.⁶²

3. Constitutional Principles and Diligent Advocacy

Perhaps the most salient point regarding the educational value associated with fact patterns featuring racist characters (at least as criminal defendants) relates to an extremely important legal principle: “all criminal defendants have a constitutional right to be represented by a competent attorney.”⁶³

This principle is further reflected in the rules of professional responsibility. Certainly, a lawyer may refuse to represent a client whose “cause is so repugnant to the lawyer as to be likely to impair . . . the lawyer’s ability to represent the client.”⁶⁴ Nonetheless, ethical rules strongly reflect the notion that all defendants are entitled to a defense. For example, the comment to Model Rule of Professional Conduct 6.2, which encourages lawyers to provide pro bono legal services, provides that “[a]n individual lawyer fulfills this responsibility by accepting a fair share of unpopular matters A lawyer may also be subject to appointment by a court to serve unpopular clients”⁶⁵ Lastly, professional responsibility rules make clear that once a lawyer undertakes representation of a particular client, the lawyer must engage in zealous advocacy on the client’s behalf.⁶⁶

Simply put, every person charged with a crime is entitled to legal counsel who will provide zealous representation, regardless of how unpopular their client’s beliefs may be. In fact, harkening back to John Adams’s 1770 defense of the British soldiers at the

Mock Trial Program, SETON HALL L., <http://law.shu.edu/students/academics/legal-skills-training/mock-trial.cfm> [<http://perma.cc/632X-DLCB>] (last visited May 1, 2022).

62. Additionally, as stated in Part II.B.1, the primary purpose of mock trial competitions is to train law students in the basic building blocks of trial advocacy. *See supra* notes 55–56 and accompanying text. The purpose of a mock trial competition is not to train law students to cope with circumstances in which they are presented with possibly distressing racist speech. Once again, the pursuit of a secondary benefit should not come at the cost of student participation in mock trial or negatively impact student learning.

63. Amy Porter, *Representing the Reprehensible and Identity Conflicts in Legal Representation*, 14 TEMP. POL. & CIV. RTS. L. REV. 143, 146–47 (2004); *see also* U.S. CONST. amend. VI (“In all criminal prosecutions, the accused shall enjoy the right . . . to have the Assistance of Counsel for his defense.”); *McMann v. Richardson*, 397 U.S. 759, 771 n.14 (1970) (stating that “the right to counsel is the right to the effective assistance of counsel”).

64. MODEL RULES OF PRO. CONDUCT r. 6.2(c) (AM. BAR ASS’N 1983).

65. *Id.* at r. 6.2 cmt.

66. *See id.* at r. 1.3 (“A lawyer shall act with reasonable diligence and promptness in representing a client.”). The word “diligence” replaced the zealous advocacy requirement in Canon 7 of the Model Rule of Professional Responsibility. *See* MODEL CODE OF PRO. RESP. Canon 7 (AM. BAR ASS’N 1980). However, “zealous advocacy” is the law profession’s generally accepted principle and endures in many states: “Once lawyers agree to represent a client, they assume the original canon’s obligation to advocate for that client zealously.” Porter, *supra* note 63, at 148–49.

Boston Massacre,⁶⁷ “[h]istory is replete with instances of distinguished and sacrificial services by lawyers who have represented unpopular clients and causes.”⁶⁸

Because mock trial often requires students to argue both sides of a problem, a criminal fact pattern can be written so that an advocate must defend a repugnant client, such as a racist individual. Thus, in having to defend such clients (even hypothetical ones like Avery Wilson), the mock trial experience reinforces what one legal commentator calls “the core principle of democracy, which provides that every person has an equal opportunity to competent representation.”⁶⁹ An educational experience that advances this objection is certainly one of value.

In this sense, while the primary goal of a mock trial competition is to train law students in foundational advocacy skills,⁷⁰ it need not be the only objective. As such, a fact pattern is certainly commendable to the extent it provides students with an opportunity to hone essential advocacy techniques while also reinforcing important constitutional and ethical doctrines.

However, the goal of training excellent advocates and enhancing respect for constitutional and ethical principles can be accomplished with an almost unlimited number of fact patterns—ones that do not contain racist speech. Obviously, people who say racist things are not the only type of unpopular clients requiring a defense. Yet, it is important to note once again that trial problems using racist speech are the types of problems that adversely impact student participation and learning.⁷¹ Consequently, because skills training and respect for the principle that even unpopular clients deserve representation can be imbued by fact patterns without racist language, there is little justification for using problems that do.⁷²

67. On the night of March 5, 1770, British soldiers fired into a crowd of civilians on King Street in Boston, killing six people. After the soldiers were arrested and charged with murder, a loyalist merchant appeared that day at the office of John Adams and tearfully implored him to represent . . . the soldiers. Although he realized he would be vilified by the town’s inhabitants and the press, thus jeopardizing his thriving legal practice, Adams, then a 34-year-old lawyer, immediately agreed to do so, firm in his belief that all persons accused of a crime were entitled to an effective legal defense.

John F. Tobin, *The Boston Massacre Trials*, 85 N.Y. STATE B. ASS’N J. 11, 12 (2013).

68. MODEL CODE OF PRO. RESP. EC 2-27 (AM. BAR ASS’N 1980); *see also* Model Code of Judicial Conduct (1986).

69. Tchia (Tia) Shachar, *The Ethics of Client Selection: A Moral Justification for Representing Unpopular Clients*, 6 DEPAUL J. FOR SOC. JUST. 1, 2 (2012).

70. *See supra* Part II.B.1.

71. *See supra* Part II.A.

72. Some may suggest that it is not the role of trial competitions to teach students the value of representing unpopular clients. Under this view, trial competitions should focus on skills training while the principle that everyone is entitled to a defense is best taught in other parts of the law school curriculum. For example, *see* Mary Helen McNeal, *Slow Down, People Breathing: Lawyering, Culture and Place*, 18 CLINICAL L. REV. 183, 230 (2011), observing that “[a]n important objective of clinical teaching is fostering critical thinking, reflection, and critique as students represent poor or unpopular clients.” Professional responsibility classes are also another area in which fruitful discussion regarding representation of unpopular clients might take place. *See supra* notes 64–66 and accompanying text.

CONCLUSION

Law school mock trial competitions should reflect the value of educational inclusivity. Fact patterns using racist speech may require that students repeat racist statements or otherwise endure racist insults. Consequently, because such fact patterns dampen student participation and harm student learning, they are indeed anti-inclusive and inequitable. As such, fact patterns using racist language have little place in mock trial competitions.

It should be acknowledged that trial problems in which racist characters make racist statements *may* have some educational benefit. However, such benefits are significantly outweighed by competing considerations that impact the student learning experience. As such, these supposed benefits do not justify the anti-inclusive consequences of fact patterns using racist language.

Indeed, as noted by Professor Alvaro Bellido de Luna, mock trial problems can help students learn to be excellent advocates without having to say racist things or be subjected to racist content.⁷³ Hence, trial problems featuring racist speech are simply unnecessary and counterproductive. As Professor Bellido de Luna put it, “just give me a good murder case.”⁷⁴

73. This point of view was expressed by Professor Bellido de Luna in a conversation with the author in December 2021. The content of that conversation has been quoted with the professor’s consent. Professor Bellido de Luna is the Assistant Dean for Advocacy Programs at St. Mary’s University School of Law.

74. *Id.*