By email
September 1, 2011

Dear Mr. Vespa Papaleo:

We are writing to respond to the concerns you expressed in your recent email to Professor Maldonado about Seton Hall Law School's upcoming public event, "A Civilized Debate on Same-Sex Marriage".

First, we sincerely regret that you are unable to attend. Both of us respect and appreciate all the effort you have put into the issue of couples recognition in New Jersey during your time as Director of the New Jersey Division on Civil Rights, as well as your efforts on so many other civil rights issues. It would have been an honor to have you at our event.

We hope you are aware of Seton Hall Law School's longstanding commitment to diversity. Its first dean was a woman, making it the first accredited law school in the country to have a woman dean. At that time, the Law School welcomed Catholics and Jews to the legal profession when persons of those faiths and of the working class generally faced many hurdles to becoming lawyers. Over the decades, we have committed enormous amounts of time and resources seeking to address the issue of lack of racial diversity in the legal profession. The Law School has one of the most diverse law faculties in the country, and a truly diverse student body as well.

With regard to LGBT issues, about twenty years ago, Seton Hall Law School added sexual orientation to its antidiscrimination policy. The Dean at the time, Ronald Riccio, announced that policy to new students, as to sexual orientation specifically, at each year's orientation event. We formed a recognized LGBT student group about eight years ago. Professor Poirier is the faculty advisor to that group. For more than a decade, Professor Poirier has taught a seminar on Law and Sexuality, and our family law curriculum pays considerable attention to couples recognition, same-sex adoption, and similar issues. Some time ago, our clinics litigated one of the leading lesbian parenting cases in the state. When the Dean's Diversity Council was formed three years ago under the leadership of Professor Maldonado, we made sure to include LGBT issues along with race, sex/gender, and religion as part of its portfolio, and the Diversity Vision Statement endorsed by the faculty makes that commitment quite explicit. In short, Seton Hall Law's commitment to legal education is both Catholic and committed to diversity, including sexual orientation and gender identity.

The particular question here is how to educate around issues of couples recognition and marriage equality. Here we respectfully disagree with the point of view expressed in your email with regard to the choice of a debate format. It is our view, based on experience, that this format works better for a large audience than other we have tried. For example, a number of years ago, we held an event sponsored by the nascent LGBT student group about LGBT family law issues, with Suzanne Goldberg and James Esseks as speakers. It was not particularly well-attended. For better or worse, a debate format draws a bigger audience.

A few years later, another student-sponsored event presented the Catholic view of same-sex marriage. Some of the more outrageous statements of the two speakers were challenged

vociferously from the floor, in a way that verged on getting out of control. Once again, the education function was largely lost.

More recently, the national Federalist Society sent a speaker our way – one Jennifer Roback Morse, whose position on couples recognition begins with the proposition that children only flourish when raised by a man and woman who are biologically their parents and who are married for life. Dr. Morse thus manages to combine critiques of divorce, single mothers, assisted reproduction, and absent fathers with her claim that legal recognition of same-sex couples will endanger their children and society more generally. Unfortunately, the event did not manage to successfully engage and rebut her argument. Originally, Garden State Equality had agreed to a debate on the topic of marriage equality, but when they learned they would be debating Dr. Morse they pulled out. The faculty member who replaced them at the last minute chose not to engage Dr. Morse's arguments either, instead using his time to accuse her of homophobia. The result, once again, was a frustrated audience that did not get the facts on some of the traditionalists' arguments against marriage equality.

For next week's debate, we have invited academics of the highest caliber from a variety of disciplines to square off in a respectful manner around the topic of same-sex marriage. The Dean's Diversity Council hopes to produce a truly educational event on the topic. Many of our students and much of the Seton Hall community are simply not well-informed on the details of the positions. They wish to be. Squarely engaging the arguments advanced in favor of marriage equality and those against it, in a civilized debate format, is the best way of moving forward.

We believe the same is true for much of the public at large. New Jersey has situated itself in the neither-nor of civil union, with the Civil Union Commission's report pointing out the failure of civil union status to confer on same-sex couples and their children the equality required by *Lewis v. Harris*. The matter is once again in the state's courts, and may someday find its way back into the legislature. Meanwhile, public opinion is also a vital part of the political equation. Many folks with an open mind on the issue of couples recognition will pay considerably more attention to a debate that treats traditionalist positions with respect and meets them squarely than to an event which sharply dismisses one side or the other as simply untenable. We are convinced of this. It is in this spirit that the Dean's Diversity Council presents next week's debate.

Respectfully,

Solangel Maldonado, Joseph M. Lynch Professor of Law and Diversity Council Chair

Marc R. Poirier, Professor of Law and Martha Traylor Research Scholar