



The End of Action

It looks like in 2008 we will hear a lot about **affirmative action**. Ah, that old chestnut.

Unless lightning strikes, or a miracle occurs, Arizona voters will likely face a ballot proposition next November that ends the state use of affirmative action in a number of areas. And even if it does not make it to the ballot, we are guaranteed a protracted public battle for hearts and minds.

I never had to think about race, or gender, or any niggling hegemonies that might shoulder me aside. As my homeys at MasterCard might say, it's hard to put a price on that.

In February, that battle was joined at the State Bar Board of Governors meeting. There, two lawyers engaged in a pro-con debate on the proposed initiative. **Dennis Shields**, Dean of the Phoenix School of Law, and **Clint Bolick**, Litigation Director for the Goldwater Institute, duked it out (I'll let you make your own best guess as to which viewpoint each one championed).

Their debate was considered and courtly—certainly the last we will see of that behavior as the statewide head of steam builds up.

I won't tip my hand, but as a former recipient of affirmative action largesse, I must say its use has its attractions.


Understand, I never benefited from that clunky, new-world construct we now call *affirmative action*, the one that could be *kaput* after November's

plebescite. No, that bureaucratic method is too uncertain, too focused on fairness, too cautious by half.

Instead, as a white male™, I've enjoyed the benefits of old-school affirmative action. Through high school, college, grad school and law school, the skids were lubricated with that most special brand of grease. I never had to think about race, or gender, or any niggling hegemonies that might shoulder me aside. Almost to a man (yes, a man), my professors and fellow students looked like me (in all of those important ways). As my homeys at MasterCard might say, it's hard to put a price on that.

(Of course, even that approach isn't foolproof. I still haven't heard back from Georgetown Law, which wait-listed me in 1990. Hello? Fellas?)

So as we head into a campaign year, we're asked to weigh the value and fairness of the newer, controversial brand of affirmative action, the teaspoon that for decades has been trying to move a mountain of entitlement. Clumsy and small though it may be, its disappearance could be a shock to our system—especially because the original program that helped me and others is still alive and kicking.

In a coming issue, we may have some thinkers square off on the topic. In the meantime, write to me at arizona.attorney@azbar.org. 



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