

Re-enacting *Mendez v. Westminster*

John Caher: Welcome to Amici, News and Insight from the New York Courts. I'm John Caher.

Seventy-six years ago, the same year that Jackie Robinson broke the color barrier in Major League Baseball, the Mendez family and other Mexican American families in Southern California took on segregated schools and set the stage for the US Supreme Court seven years later to end the practice nationwide with its landmark decision in *Brown v. Board of Education*.

To commemorate the decision from a Ninth Circuit US Court of Appeals, the Latino Judges' Association is sponsoring a reenactment of the case with the help of students, faculty and administrators at Columbia Law School and St. John's Law School. The event, which is open to the public and comes with CLE credit for attorneys, will be held March 23rd at the Southern District of New York in Manhattan and virtually.

For this Amici podcast, I'm pleased to be joined by two students and an Assistant Dean who will walk us through *Mendez v. Westminster*, give us a sneak preview of what to expect on March 23rd, and perhaps talk about what the case means to them as Latinx students and lawyers.

So I'd like to welcome Assistant Dean Andrea Saavedra of Columbia Law School, Giselle Valdez, a student at Columbia, and Tatiana Zapata from St. John's.

So Dean, let's start with you, what is *Mendez v. Westminster*, and why is it important?

Andrea Saavedra: Thank you so much for the question, John, and thank you for hosting us as part of this conversation.

Mendez v. Westminster is a fundamental case regarding the right to access for education for children in California that, importantly, raised the question for Latinos in the area about whether or not they had the right to go to the same schools in their districts as Californians who were classified as white.

And so, it's an example of a civil rights decision in the education space where Latinos made an impact in connection with getting access for Latino children to their public school system in California.

John Caher: Now when this decision was handed down, I think Earl Warren was the Governor of California, correct?

Andrea Saavedra: That's correct.

John Caher: And then some years later he went on to author the opinion in *Brown v. Board*, right?

Andrea Saavedra: That's right.

John Caher: Do any of you see a connection here?

Andrea Saavedra: There's obviously a connection, in terms of having the right leaders in the room at the right time when decisions are made. And the fact that there is a lot of discussion through the documentary on *Mendez* regarding how Justice Warren had familiarity with the Mexican-American community in California, and so he understood the impact of segregation on people that he saw as his neighbors and colleagues.

And I think that ethos of equality, especially in the public education system, was definitively taken with him to the Supreme Court, and you see that thread in the decision making.

Giselle Valdez: Now just to jump off of that, in addition to Warren writing the opinion, you also have Thurgood Marshall who argued *Brown v. Board*, and he writes a brief in support on behalf of the NAACP that raises a lot of the arguments he then raised at the Supreme Court in *Brown v. Board*.

So like Dean Saavedra said, it's the people in the room that changed the progress of the history for not only the Mexican American community, but also the Black community as well in thinking about *Brown v. Board* and all children in access to education.

John Caher: Thurgood Marshall wrote an amici brief in *Mendez*?

Giselle Valdez: Yeah. He wrote an amici brief which we're actually drawing upon for the reenactment. He raised a lot of those arguments that he then brought forward in *Brown v. Board* when he was writing that amici brief on behalf of the NAACP.

John Caher: Now Tatiana, was that kind of a dress rehearsal for *Brown v. Board*?

Tatiana Zapata: Probably. I think that all of these issues were probably being seen by both communities. As Giselle and the Dean said, it was something that was relied upon in *Brown v. Board*.

John Caher: How did this reenactment come about?

Andrea Saavedra: The Latino Judges Association reached out to me and some other professorial and academic colleagues in the fall of 2022, expressing an interest in involving the law schools in connection with their reenactment. And the LJA has previously done, as you know John, other events around this particular decision.

But I think the goal was to bring as many law students into the fold as possible so that they could also learn about the history of the case and how it may influence or impact their understanding of their role in the profession.

John Caher: Tatiana, why is a reenactment an effective way to tell this story? There's lots of ways you could have done it—as a standard CLE, as a lecture, as something else. Why a reenactment?

Tatiana Zapata: Well, as law students we're always reading cases just from a book. And so a reenactment is a different way to get that information out to us law students.

There's going to be mostly Latino students that are taking part in the reenactment, and so that's a big connection and a way, I think, to have a different way to see the arguments, to hear the arguments, to see how the decision was made.

And it also brings in the community. There's going to be family members there. There's going to be middle school and high schoolers that are going to be watching the reenactment. And for them, I think it's really an important way to learn this part of history that at least some of us who went to certain public schools didn't learn about.

And as we spoke about, it was very important in leading up to *Brown v. Board*, which is something that a lot of people do not know about. But getting a little bit more background is also really important in learning about history and these judicial decisions.

John Caher: Well, it seems like it makes it leap off the pages of the case law you read a little bit.

Tatiana Zapata: Exactly. Yeah.

John Caher: Giselle, Tatiana, I know you have an academic interest in *Mendez*, but you both also revealed offline that you have a personal interest in it, as well. That it resonates with you on a personal level.

Giselle, can you tell me your story?

Giselle Valdez: Definitely. So, this case takes place in Orange County in Southern California, and I grew up along the border in San Diego. And I think growing up, one thing that many Latino children or Mexican American children face in southern California is the question of discrimination in public schools.

And it's something that I think exists to this day. I know growing up, I've been talking to my mom about this because I've told her about me working on this case and writing the script. When I wanted to attend elementary school, I had to be sent to various public schools and I had to do various language tests to prove that I was capable of being in the classroom.

And I think even growing up and hearing these cases where they would put students in ESL classes with maybe not the same resources, the same instruction, the same support systems, it's something that's still really present today and there's change being made. But in public schools, especially in Southern California and in border communities, it's a question that's still raised.

And so, when reading this case and hearing just how inspiring it was that they advocated for this change and for me to be able to attend the institutions I have attended thereafter, they really were the trailblazers. But I think it also shows that there's still change that needs to be done.

John Caher: Tatiana, what is your story?

Tatiana Zapata: I was born in Colombia, but I have a younger brother who was born here in the United States. And we had to go through something very similar with him where he was already in elementary school, but we had to move and so he was placed in a different elementary school.

And in this new school they saw his last name, which is Sanchez, a very typical Hispanic name, and they put him in a ESOL class. My brother grew up in a bilingual household. My mom spoke Spanish, but my stepdad and

I, we spoke English. And my brother had already been in school, so he spoke English.

But just based off of his Hispanic last name, they put him in a class that was mostly with Spanish instruction, Spanish-speaking students. And it was a struggle that my mom had to go through to make sure that he was put in a class where he could succeed and where he could continue the education at a level that he was already at. That was, I guess, a little bit of bias that I think is still prevalent in our education system. I know at the time of *Mendez v. Westminster*, the students were in fire hazard buildings. Those weren't things that we had to deal with, my family personally, but it's still things that we need to know about.

John Caher:

Dean, what about you? Any personal affinity for *Mendez*?

Andrea Saavedra:

Absolutely. As a Latina who's been in the law for almost 20 years, one of the privileges I have is seeing our students as they come in at the beginning of their careers and seeing the gap in terms of knowing their history. You would think it would close, but I don't find that the gap in the knowledge of the students coming in who identify as Latino or Latinx, I don't feel like that gap has yet closed to the extent that we expect students to come knowing a little bit about their history.

Many people know *Brown*. And so I would think for a lot of the Latinx students, they could take some pride in knowing that they, too, had a part in this story of expanding civil rights in the United States. And I do believe that the obligation on lawyers as civic leaders, as well as educators, is to ensure that not just future lawyers like Tatiana and Giselle, but that everybody in the community is aware of these stories.

And so for myself, I'm first generation born here, but both my parents came here as children. My mother was held back a year when she came from Cuba because she wasn't able to perform at the language level they expected.

But she was definitely someone who's very driven and pursued her career despite any obstacle. Very education focused as many of us from first generation families will be, and pursued her PhD. So I have the privilege of having a mom who really went out there and demonstrated this knowledge.

As I've gotten older, it just strikes me, "Why aren't the students coming in knowing this information?" They should come in at some point, get exposed to their history as Latinos in the United States. And so, anything

that we can do as affinity groups, as associations, as educators to promote that is critically important because it also helps buy-in. They also feel they are Americans too, that they're a part of this community and they're part of the history of this great nation.

John Caher: Giselle, Tatiana, it strikes me that the family experiences that you are aware of occurred long, long after the *Mendez* decision and long, long after the Brown decision. So obviously, neither of those decisions waved a magic wand and put an end to discrimination.

Giselle Valdez: We still have work to do. There's work to be done. But then I also recognize the power of the first people that opened that door, like the *Mendez* family, that opened the door for other Mexican Americans like myself to attend the same schools or attend higher education institutions. There's still a lot of work to be done, but thanks to them and thanks to *Brown v. Board*, the doors were opened, which I think is really important.

John Caher: What is the goal of this program on March 23rd?

Tatiana Zapata: I think it's education and in a way that ties the legal community to the overall community in terms of educating students, like the Dean said, about something that we may not have known about. But also educating people in the community about history that is not very prevalent in American schools, at least in a lot of public schools.

We hear stories now in Florida, where African American studies are being shut down, and so I think that this is a way for the legal community to put this type of information out and not have more government-sponsored discrimination and bias.

John Caher: But it sounds like you're reaching, as the dean said, it sounds like you're looking beyond law students.

Tatiana Zapata: Definitely!

Andrea Saavedra: And I'll just add one more piece. I want to commend the judges for stepping forward, and Giselle and Tatiana also, for taking the lead on top of all their obligations. Hopefully, by seeing the judges participate in this CLE and seeing our students participate, those audience members that are not necessarily in the profession but are looking at the profession or have questions about the profession, will see themselves.

Part of the point of having the reenactment is that we have so many different members and generations of the Latinx legal community participating that people can say, oh, there's an infrastructure here. There's actually a deep bench of leadership here. And all we have to do as students and as members of the community is reach out and learn from each other.

Giselle Valdez: I just wanted to add one more thing on those notes. Both are very powerful and I think really represent what we're doing here. And I think one thing that you, John, brought up earlier was the idea of just bringing storytelling off of the case book or off of the page.

I think that by telling it through this reenactment, where we'll have mostly Latino students participating, Latino judges overseeing and also participating, you're bringing this story to life, in a sense. And I think our script, where we're showing a bit more of the legacy and the history of the case, goes to show that.

It's one thing to read about it online or to do research into it, and it's another thing to show the story. And to the high school students and the middle school students who attend, to show them that this is a real powerful story. It's something that is brought to life through the reenactment in a very unique way.

Sometimes in law, we think it's just the precedent, but I think it's also important to tell those stories, and through this medium we're using, I'm excited that the audience will be able to see that.

John Caher: Well, it sounds like a great program, and thank you for doing it.

The program will be held from 6 to 8:00 PM on March 23rd at the Southern District of New York, 500 Pearl Street in New York City. You must RSVP and register by March 17th to attend in-person.

To register for CLE credit, or to attend virtually, you'll find a link on the transcript and in the podcast posting on SoundCloud.

Thank you very much for your time, and thank you for what you're doing.

Registration: <https://bit.ly/mendez-westminster-reenactment-reg>

