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## We Represent the Law Prof Guild

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## We Represent the Law Prof Guild

*Scott A. Anderson*\*

Stanley Fish describes academia as both an ivory tower and a common job. Academics are free to pursue a life devoted to “the particular pleasures” of contemplation, but are not free to pursue that life beyond their professional job description.<sup>1</sup> In particular, academics may not advocate for students to adopt particular moral stances or to take political action. “The academy is the place where knowledge is advanced, where the truth about matters physical, conceptual and social is sought. That’s the job . . . .”<sup>2</sup> So, for Fish, “contemplation as an end in itself” is permitted, but “contemplation as a preliminary to action” is not the professor’s job.<sup>3</sup>

Fish’s description of academia as “just a job” is provided from inside the institution. Fish ensures that any limitations on professors come from within the world of academia, not from the world of democracy.<sup>4</sup> The Kuhnian “relevant community” is the guild of professors, and the guild of professors determines the constitutive and regulative principles for it: “what is true *is* what the guild says is true.”<sup>5</sup>

Fish wants his “just a job” description of academia to apply to the legal academy.<sup>6</sup> Unfortunately, it doesn’t. The law professors’ guild has determined that not only contemplative, but also practical knowledge and skills must be imparted to its students. Indeed, the American Bar Association—the accrediting body for all American law schools—requires that law students be given skills that could help them to pass the bar exam<sup>7</sup> and to practice law.<sup>8</sup> So, being a law professor is not just an academic job; it is a job that prepares its students to enter and to succeed in another profession: the profession of law.

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<sup>1</sup> STANLEY FISH, VERSIONS OF ACADEMIC FREEDOM: FROM PROFESSIONALISM TO REVOLUTION (forthcoming 2014) (manuscript at 84) (on file with the FIU Law Review).

<sup>2</sup> *Id.* (manuscript at 85).

<sup>3</sup> *Id.* (manuscript at 87).

<sup>4</sup> *Id.* (manuscript at 96).

<sup>5</sup> *Id.*

<sup>6</sup> *Id.* (manuscript at 87).

<sup>7</sup> ABA STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS §301 (2013-14), *available at* [http://www.americanbar.org/content/dam/aba/publications/misc/legal\\_education/Standards/2013\\_2014\\_standards\\_chapter3.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/publications/misc/legal_education/Standards/2013_2014_standards_chapter3.authcheckdam.pdf).

<sup>8</sup> *Id.* at § 302.

Law professors “offer[] knowledge and skills to students who wish to receive them”<sup>9</sup> in order to practice law outside of the academy. Law professors are not training their students to become professors; they are training their students to become lawyers. For this reason, Fish may wish to amend his “just a job” description of academia to exclude those academic professions that train students to enter other professions. This would be quite a concession, however, because the amended description would not apply to Fish’s own institution: the law school. Additionally, the amended description would not apply to schools that train students for other professions, including medical schools and seminaries.

Fish could maintain his “just a job” description of academia, but only by artificially reducing membership in the law professors’ guild. Fish could argue that only persons like him—those with PhDs and not law degrees—are the appropriate members of the “relevant community.” This would bolster Fish’s argument that the legal academy is only about contemplation, but it would remove from the guild the vast majority of current law professors. A less restrictive approach would be to claim that only so-called “doctrinal” professors are members of the “relevant community.” Unfortunately, this reduction would be misguided on two fronts. On the one hand, “doctrinal” professors who teach bar examination subjects (such as Contracts, Torts, and Criminal Procedure) would have to be excluded. They would be imparting the knowledge and skills needed to pass the bar exam, a motive extrinsic to “advancing knowledge and discovering truth.”<sup>10</sup> On the other hand, excluding so-called “skills” professors from the “relevant community” would run roughshod over the actual standards imposed via the ABA by the law professors’ guild.

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<sup>9</sup> FISH, *supra* note 1 (manuscript at 9).

<sup>10</sup> *Id.* (manuscript at 85-86).