From: Troya, Yvonne

Sent: Friday, April 18, 2014 12:07 PM

**To:** Clark, JR **Cc:** Troya, Yvonne

**Subject:** Statement of Opposition to Proposal to Revoke Interpretation 305-3

Dear Sir/Madam:

I strongly oppose adoption of the proposal to revoke the "paid internship rule" of Interpretation 305-3. For the following reasons, I cannot fathom why the ABA would consider changes to the current rule.

First, revoking the rule conflicts with the ABA's longstanding effort to assure the quality of field placements as education, and to require strong faculty oversight of field supervisors. ABA regulation seeks to assure the quality of the externship experience through strong faculty oversight of the relationship between student and field supervisor. Despite advances in recent years, close and careful supervision <u>cannot</u> correct the risks of paid externships, because the objectives of paid employment and education can and often do conflict.

Second, there is no need to change the current Interpretation. Nothing suggests that current ABA requirements for field placement courses interfere with the ability of law students to find paid work during law school. There is no evidence that field placement courses are displacing paid part-time work for law students, or that field placements programs themselves have suffered because of the inability to give credit for paid work. Employers willing to pay law student interns prefer to do so unrestrained by law school requirements for for-credit programs.

Third, revoking the Interpretation will cause serious and sustained harm to the quality of education afforded to law students by field placement courses. Field placement faculty demand that field supervisors construe their role as teacher or mentor, not as employer. By contrast, in an employment relationship, the employer has an incentive to minimize the amount of time spent educating the intern beyond the specific demands of assigned tasks. Any time devoted to education reduces the net benefit of the intern's work to the employer.

There is no way to overstate this issue: employers are busy and are not in the role of providing legal education. I have seen students come away from paid internships with distorted ideas of ethics and no sense for why they are have been taught to proceed a certain way in particular job tasks. Students and lawyers beginning their careers are not in a place to question their supervisors in a paid-work setting and are not usually given the mentorship they need to determine if that area of law is even a good fit for them. I think revoking this rule will end up with a larger percentage of unhappy new lawyers who leave the field due to lack of mentorship when they could have instead been directed to a legal field more in keeping with their particular gifts.

Revoking the rule will put students in the position where the demands of compensation override the demands of the educational experience. It would also permit supervisors to structure an intern's work to produce a net benefit to the placement, rather than to maximize the educational benefit to the intern. Finally, it would reduce the faculty member's ability to influence the demands that the employer places on interns.

Fourth, revoking the rule will significantly affect the range and quality of clinical opportunities that a law school might offer, both for externships and for law clinics. Students have an incentive to favor placements for which they can receive compensation over placements in which they cannot. This incentive makes it less likely that students would enroll in in-house clinics in which they would not receive pay and field placement clinics at placements that do not offer pay.

Please do not change the current rule. There's no reason to change it, and I have no doubt it will have a harmful effect on students.

Best,

Yvonne Troya Clinical Professor of Law Medical Legal Partnership for Seniors, Legal Director University of California, Hastings College of the Law