

The City University of New York

CUNY SCHOOL OF LAW

Law in the Service of Human Needs

February 28, 2013

Via email

ABA Task Force on the Future of Legal Education
c/o Mr. Art Garwin
Deputy Director, Center for Professional Responsibility
American Bar Association
art.garwin@americanbar.org

Dear Distinguished Members of the ABA Task Force on the Future of Legal Education:

Thank you for requesting feedback on the important work you are undertaking.

I would like to address a common narrative that often frames an analysis of the future of legal education. Many inside and outside the academy assert that there is a glut of attorneys, and that the dramatic drop in applications to law schools over the past three years is a market correction for this overabundance. I want to challenge this position.

Poor and moderate-income people in the United States desperately need legal services. This need has been exacerbated by the financial crisis and the collapse of the housing market. Cuts in funding for civil legal services and growing economic inequality have further limited equal access to justice. Many who were once middle class have slipped into destitution as a result. Their need for basic legal counsel is great.

Moderate- and low-income people cannot skillfully navigate our complex legal system without assistance. Nevertheless, some of the most important decisions about their lives may be made in court: decisions about access to jobs, health care, food, residence in this country, freedom from domestic violence, even access to their own children.

In New York City, for example, 99% of tenants are unrepresented in eviction cases, which leads to more people being evicted from their homes and an increase in homelessness and its grave

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social consequences.¹ Housing court alone holds many more examples of under- and unrepresented people facing serious legal challenges. The market is not saturated with attorneys able to perform these vital functions. In fact, we suffer from a dearth of attorneys ready and able to represent those with the greatest legal need.

We have a mismatch, then, between attorney supply and the demand for legal services. Too many lawyers, who took out the expensive loans necessary to complete their legal educations, are now burdened with substantial debt that makes service to anyone but the wealthy prohibitive. These lawyers are mismatched with the demand for legal counsel among: 1) the middle class, who cannot afford lawyers for the rich but do not qualify for legal aid, and 2) the poor, who cannot obtain free legal services because the overwhelmed organizations offering them must turn away four out of five who qualify.² The market will not correct this serious problem, and a precipitous drop in applicants to law schools may only make it worse.

In 2006, the ABA adopted a resolution urging states “to provide legal counsel as a matter of right at public expense to low-income persons in those categories of adversarial proceedings where basic human needs are at stake, such as those involving shelter, sustenance, safety, health or child custody.” This resolution is even more important seven years later, after the worst economic downturn since the Great Depression.

Framing the future of legal education with the great need for legal services among the poor and middle class puts into sharp relief a few of the obligations of the legal academy. We must prepare students to provide legal counsel “to low-income persons [whose] basic human needs are at stake, such as those involving shelter, sustenance, safety, health or child custody.” To do so, we need to invest in programs, such as clinics, that teach the skills, professional judgment, and ethical values necessary to serve poor and middle-class clients. Given the connections between poverty and race, we must redouble our efforts to graduate racially diverse, culturally competent lawyers. We must also find ways to ease the burden of law school debt, so that our graduates can afford to serve those who cannot afford much.

The legal academy must graduate attorneys academically prepared and financially able to represent those clients most in need of legal services.

Thank you for your consideration of this perspective.

Yours truly,

A handwritten signature in black ink, appearing to read "Michelle J. Anderson", with a stylized flourish at the end.

Michelle J. Anderson
Dean and Professor of Law

¹ THE TASK FORCE TO EXPAND ACCESS TO CIVIL LEGAL SERVICES IN NEW YORK, 2010 REPORT TO THE CHIEF JUDGE OF THE STATE OF NEW YORK 1-2 (2010).

² THE TASK FORCE TO EXPAND ACCESS TO CIVIL LEGAL SERVICES IN NEW YORK, 2012 REPORT TO THE CHIEF JUDGE OF THE STATE OF NEW YORK 1 (2012).