

Via email

July 16, 2020

The Honorable Bernette Joshua Johnson and Associate Justices
Louisiana Supreme Court
400 Royal Street
New Orleans, Louisiana 70130

Dear Chief Justice Johnson and Associate Justices:

As Deans of Louisiana's four law schools, we write again to express our deep concern about the Court's decision to cancel the July 27 bar examination without providing assurance about a secure and fair opportunity for our graduates to gain admission to practice in Louisiana. We appreciate the complexity and difficulty of the Court's task in balancing its twin obligations to safeguard the integrity and competency of those admitted to practice and the health and safety of the public in light of the unfolding COVID-19 pandemic. We also appreciate the Court's invitation to us to share perspective and advice on the best path forward under these difficult circumstances.

In the spirit of respectful collaboration you have graciously invited, we must write to you now to share our profound concerns over the state of uncertainty with which our graduates are now confronted. Within an hour of the Court's announcement yesterday, each of us witnessed the impact on our graduates of learning that the bar examination had been cancelled without any clear path forward for them to begin their professional careers. They were disappointed and stunned; one of us encountered a recent graduate studying for the bar in one of our classrooms dissolved in tears having just read the Court's announcement. Several of us scheduled emergency town halls yesterday afternoon to address our graduates whose plans had just been upended and to attempt to offer them whatever assurance we can that their lives and careers will not be further sidelined. Unfortunately, we are not in a position to offer them much clarity about what will come.

We write to you now to underscore the very serious costs associated with continued uncertainty and delay in providing a fair opportunity for our graduates to enter the profession. Already, before yesterday's announcement, our graduates were laboring dutifully—even heroically—to prepare for the bar examination under conditions far more adverse than any of us could have imagined six months ago. Many of them have faced serious illness themselves; deaths of loved ones or partners caused by the virus; disruption, dislocation, hardship and even homelessness caused by the economic fallout from the pandemic; unanticipated and unavoidable caregiving responsibilities for children or other family members; and mounting anxiety, distraction and other mental health challenges. Yet, they have soldiered on and prepared for the bar examination.

The sudden announcement that the July 27 sitting has been cancelled, without any assurance of a substitute opportunity to gain admission to the bar without undue delay, has leveled many of them. We understand the recent developments that have led the Court to conclude that cancellation is necessary, and we applaud the Court's concern for the health of examinees and the public. But the reality is that the uncertainty and disruption caused by the Court's announcement has only compounded the challenges examinees are facing in fairly demonstrating their competence to practice.

In the past week, we have written to you twice to recommend that the Court adopt some form of emergency admission, with the imposition of additional safeguards to ensure the competence and integrity of the newly admitted attorneys during their first year of practice. We will not repeat those arguments here, except to underscore that yesterday's developments make them even more compelling. Our graduates have now had the rug pulled out from them repeatedly in recent months—first, by the loss of their last weeks of law school classes and graduation on campus, then by disruptions for many to their post-graduation employment plans, and now by the sudden cancellation of the bar exam just days before it was to be administered.

Any rescheduled examination, whether in person or online, in the wake of these developments is going to be, first and foremost, a test of the individual examinee's circumstances, far more than their professional preparation and competence to represent clients. Some examinees will be inevitably obstructed by illness or entirely understandable struggles with anxiety or other forms of mental distress, while the more fortunate among them may be less affected. Any effort to move the examination entirely online will mitigate the risks of viral transmission but greatly aggravate the risk that many examinees will be defeated in their attempt to demonstrate their competence by circumstances wholly unrelated to competence: faulty internet connections, thunderstorms, their lack of a secure home environment to take the exam uninterrupted, and more. These burdens will skew according to race, gender, age, and economic advantage, disproportionately falling on examinees of color, students with significant caregiving responsibilities (often but not always women), non-traditional students, and individuals who suffer from heightened health vulnerabilities or disabilities. We appreciate that the Court is faced with an array of alternatives that are all imperfect; but to adopt the one alternative that will predictably exclude more such lawyers from the profession should be avoided at all costs.

This leads us even more firmly to the conclusion that the most responsible path forward is to adopt a form of emergency admission for recent law school graduates (May 2019 or later), who were registered and approved to take the Louisiana bar examination for the first time in July or October 2020. As we have previously urged, this admission could be accomplished with appropriate assurance of the competence and integrity of the newly

admitted lawyers by subjecting them to the usual requirements of character and fitness review, the usual satisfaction of the MPRE, and a bevy of additional educational requirements as well as scrutiny to ensure their success in their first year of practice. We stand ready to assist the Court and COBA in devising and implementing these additional safeguards. The limited number of remaining registered applicants could sit for the examination in an alternate format, including online/remote, and administration of such an alternative would be entirely manageable.

We urge the Court to act without further delay in adopting an emergency-admission rule and in sparing our graduates from prolonged uncertainty and new obstacles in the months to come.

Thank you for your consideration. We are, as always, ready to assist the Court in any way in the days ahead.

Sincerely,

Dean Madeleine Landrieu
Loyola University College of Law

Interim Dean Lee Ann W. Lockridge
Louisiana State University Paul M. Hebert Law Center

Dean David D. Meyer
Tulane University Law School

Chancellor John Pierre
Southern University Law Center

cc: May 2020 Graduating Classes of:
Louisiana State University Paul M. Hebert Law Center
Loyola University College of Law
Southern University Law Center
Tulane University Law School