

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE**

LINCOLN MEMORIAL UNIVERSITY,)	
DUNCAN SCHOOL OF LAW,)	
)	
Plaintiff,)	
)	
v.)	Case No. 3:11-CV-608
)	Judge Varlan
THE AMERICAN BAR ASSOCIATION,)	Magistrate Judge Shirley
)	
Defendant.)	

**PLAINTIFF’S RESPONSE IN OPPOSITION TO DEFENDANT’S MOTION FOR
EXTENSION OF TIME TO RESPOND TO PLAINTIFF’S COMPLAINT**

Duncan School of Law (“DSOL”) in this response requests that this Court deny Defendant American Bar Association’s (“ABA”) Motion for Extension of Time to Respond to Plaintiff’s Complaint. (Doc. #22). Such an extension of time is truly inappropriate in this case. The actions by the ABA in this case have placed DSOL in an emergency situation of an urgent nature. DSOL is not capable of enduring an unnecessary extension by the ABA.

As a result of the ABA’s arbitrary and capricious decision denying DSOL provisional approval and its premature public announcement of this decision -- in violation of the ABA’s own rules -- DSOL is damaged on a daily and continuing basis. As DSOL counsel made known to this Court during the hearing of January 6, 2012, the very existence of DSOL is threatened. The effect of the ABA’s actions upon DSOL’s reputation adversely affects the ability of DSOL to attract and maintain students, faculty and funding. This harm being endured by DSOL began immediately upon the ABA’s decision of December 20, 2011 and is ongoing.

This is currently the time period, November through February, in which applicants are applying to law school. Tens of thousands of applicants are deciding where to apply and DSOL

is being rejected summarily based solely upon the ABA's actions. DSOL is not receiving the benefit accruing to approved law schools which are readily made known to prospective students by the Law School Admission Council. DSOL faculty are not able to participate in academic events restricted to professors at approved law schools. DSOL students may not apply for scholarships and employment restricted to students at approved law schools. The public interest is best served if this case is promptly resolved rather than extended.

The ABA is readily able to respond to Plaintiff's Complaint by the proper deadline of January 18, 2012. The ABA has long been apprised of the issues involved in this case. DSOL presented its positions in this matter very early in the process of the ABA Council's review of its Accreditation Committee's recommendation with respect to DSOL's accreditation. Beginning with the Hearing Brief, filed as Exhibit A to DSOL's Complaint, DSOL submitted its positions in great detail to the ABA's Council prior to its meeting of December 2, 2011 on the issue of DSOL's accreditation.

Perhaps more importantly, the ABA presents nothing in support of its request for an extension of time other than the length of DSOL's Complaint. (Doc. #23, p. 1) One is hard put to imagine how this contention could be deemed sound or of merit when the ABA itself offered its Declaration of Hulett H. Askew (Doc. #20) which numbered 115 paragraphs and 41 pages in this Court's consideration of DSOL's Motion for a Temporary Restraining Order (Doc. #2). The ABA served this declaration upon DSOL on January 3, 2011 and DSOL was readily able to acknowledge and respond to this declaration in the course of the hearing on DSOL's motion for a temporary restraining order before this Court on January 6, 2012. Indeed, the ABA had no fewer than six lawyers present at the hearing on January 6.

DSOL asks that this Court deny the ABA's request for an extension of time in light of the emergency conditions in which DSOL finds itself. The difficulties being endured by DSOL as a result of the ABA's actions would only be further compounded if an organization such as the ABA, with its depth of resources, were permitted additional time to respond in this matter.

RESPECTFULLY submitted this 10th day of January, 2012.

LINCOLN MEMORIAL UNIVERSITY
DUNCAN SCHOOL OF LAW

By: /s/Robert H. Watson, Jr., BPR No. 1702

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CERTIFICATE OF SERVICE

I hereby certify that on Tuesday, January 10, 2012, a copy of the foregoing was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by certified U.S. mail, return receipt requested. Parties may access this filing through the Court's electronic filing system:

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Dated January 10, 2012.

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