

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
KNOXVILLE DIVISION**

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

**DEFENDANT AMERICAN BAR ASSOCIATION'S
NOTICE OF SUPPLEMENTATION OF RECORD**

Defendant American Bar Association (“ABA”), by its undersigned counsel, supplements the record in this proceeding with the Supplemental Declaration of Hulett H. Askew, attached hereto. In further support of this submission, the ABA states as follows.

1. On January 18, 2012, this Court issued a 43 page Memorandum Opinion and Order denying Plaintiff Lincoln Memorial University Duncan School of Law’s motion for preliminary injunction. Doc. 35. In the Opinion, the Court noted the following:

Moreover, it was represented to the Court that the current sitting Appeals Panel was appointed prior to the decision of the Council underlying this case; thus, there is no reason to speculate that the Chair of the Council would appoint individuals who might tend to affirm the Council’s decision in a case arising subsequent to the composition of the Appeals Panel.

Id. at 20.

2. Since the Opinion was issued counsel for the ABA has learned that, due to administrative delays and a large number of volunteer member appointments to be made for Section committee and governance positions, the membership of the 2011-12 Appeals Panel was not constituted until December 18, 2011. The Council issued its written decision on December

20, 2011, regarding the School's application for provisional approval. Thereafter, it was determined that the public member could not serve and the 2010-11 public member was appointed to serve a second term pursuant to Rule 10(g) on January 25, 2012.

3. The ABA submits the Supplemental Declaration of Hulett H. Askew to inform the Court about the members of the Appeals Panel appointed for 2011-12, the timing of their appointment, and each member's affirmation that he or she will comply with all requirements of Rule 10, including its requirement of compliance with the Section's Conflicts of Interest Policy, as set out in the Section's Internal Operating Practice 19. See Document 21-3 (IOP 19 "Conflicts of Interest"), pp. 11-13. Attached to Mr. Askew's Supplemental Declaration is further information on the credentials of each member of the 2011-12 Appeals Panel and of its alternate members.

4. While counsel regrets not having had updated information regarding the Appeals Panel at the time of the January 6 hearing, counsel can assure the Court that the 2011-12 Appeals Panel stands ready to hear all appeals that are filed under the Section's Rule 10 during its term.

Dated: January 31, 2012

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Respectfully submitted,

By: s/ Howard H. Vogel

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CERTIFICATE OF SERVICE

I certify that on January 31, 2012, I properly served all parties by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt and U.S. Mail.

By: s/ Howard H. Vogel (0001015)