

development and expansion of University programs at both the undergraduate, graduate, and post-graduate levels.

3. I present this Declaration in support of Plaintiff Duncan School of Law's ("DSOL's") Motion for Temporary Restraining Order to set forth in detail the arbitrary and capricious nature of the decision issued by the Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association ("Council") denying provisional approval to the DSOL on December 20, 2011, ("Decision Letter") and the irreparable harm DSOL and its students and faculty are experiencing as an immediate, imminent and ongoing result of the ABA's decision. The Council found that the DSOL was not in substantial compliance with three American Bar Association Standards of Procedure for Approval of Law Schools ("Standards") – Standards 203, 303, and 501. Also on December 20, 2011, the ABA posted notice of its denial of provisional approval to DSOL on its publicly accessible website. The ABA's decision to deny provisional approval to the DSOL is arbitrary and capricious and in violation of due process. And, both the decision of the ABA as well as the public announcement pose irreparable harm to DSOL that is immediate, imminent and ongoing.

4. The DSOL is an extended site of Lincoln Memorial University ("LMU"). LMU was established in 1888 and was chartered by the State of Tennessee in 1897. LMU is a Level V institution accredited by SACS-COC. It is approved to award associate, baccalaureate, master's, educational specialist, and doctoral degrees. LMU has adopted a purpose of providing educational opportunities, developing community leaders, and expanding economic and social forces within the southern Appalachian region.

5. In the 1990s, LMU commenced planning for, and began, expansion beyond its liberal arts Mission to include professional and graduate education. LMU excels at providing

advanced graduate and professional education to people of Southern Appalachia which encompasses Tennessee, Kentucky, West Virginia, North Carolina, South Carolina, Virginia, Georgia, Alabama, and Mississippi. While LMU's Appalachian service area clearly has economic and educational challenges, the University has developed a regional, and for some disciplines, a national reputation for the academic excellence of its professional degree programs.

6. Because our professional educational programs are uniformly outstanding, our professional school graduates are very successful. The Nursing program has a first-time pass rate of 98%. First-time pass rates for the graduate specialty areas of Family Nurse Practitioner and Nurse Anesthetist were 83.4%. The most recent Veterinary Technology and Medical Technology graduates each achieved a 100% pass rate on their licensure examinations. Initial teacher licensure program graduates achieved a 100% pass rate. The Post Baccalaureate teacher program also achieved a pass rate of 100%. Specialty area certification pass rates for the School of Education were over 96% last year. Current pass rates available for graduates of our Master's and Specialist degree programs were both 100%. Pass rates for the Doctor of Osteopathic Medicine program will not be available until the end of December but, at this point, approximately 80% of the initial cohort of students who have completed the exam passed. These licensure and certification exam scores are used, along with other measures, to assess program effectiveness. It is important to note that LMU students are primarily from the Southern Appalachian region and that LMU's admission policies for all degree programs, including the DSOL, reflect LMU's mission of service to the Southern Appalachian region.

7. On an on-going basis, we subject our professional schools, like all of our educational programs, to a candid and rigorous assessment at every level – institutional, programmatic, curricular, teaching, and student. LMU and its law school are in the words of the

ABA's own Site Evaluation Team: "At the forefront of outcomes-based and assessment-driven legal education, using methods of evaluation that in the near future will likely become an integral part of ABA accreditation standards."

8. Our professional schools are so successful because we plan them meticulously and provide them with all the financial support necessary for success. For decades, LMU has operated with a balanced budget. In fact, it has an operating surplus for 2011 of approximately \$13 million. It has an endowment of \$38 million. In short, LMU is financially strong.

9. LMU is committed to DSOL and intends to support the law school until it has successfully reached all of its goals and has a positive cash flow, regardless of how many years it may take to achieve financial self-sufficiency. LMU is committed to DSOL because the law school is an integral part of LMU's mission and the University's commitment to the Southern Appalachian region and the ways that our graduates can serve that region. LMU's commitment of fiscal and other resources has permitted and will continue to permit DSOL to consider and implement strategic adjustments such as reducing the size of the incoming class to maintain, and eventually improve, the academic credentials of both full and part-time students.

10. As University President, I have pledged that the Duncan School of Law is, and will always be, operated with the academic rigor and financial support necessary to meet and exceed the highest possible standards, including those accreditation standards imposed by the TBLE, SACS-COC, and the ABA.

11. If this Court does not grant a Temporary Restraining Order requiring the ABA to withdraw the public announcement of its decision of December 20, 2011 and to issue a substitute announcement indicating that the Court has ordered it to hold its decision denying DSOL provisional approval in abeyance until further court order, DSOL will suffer irreparable

imminent, immediate and ongoing harm. This irreparable harm is manifested in part by irreparable and immediate damage to the law schools' reputation, and by extension, the reputation of LMU. This taint on the reputations of DSOL and LMU severely diminishes DSOL's ability to hire and retain faculty and maintain a qualified applicant pool of potential students, as well as causing significant harm to the University's fundraising and Planned Giving initiatives.

12. The intentional publishing by the ABA of its decision on its website substantially harms DSOL and, in effect, denies DSOL the right to be placed on equal footing to allow it to compete with other law schools for students, faculty, and other resources.

I make this Declaration pursuant to 28 U.S.C. § 1746. I declare under penalty of perjury that the foregoing is true and correct. Executed on December 29, 2011.


James Dawson, EdD.

CERTIFICATE OF SERVICE

I hereby certify that on Friday, December 30, 2011, a copy of the foregoing Declaration of Dr. James Dawson 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 December 30, 2011.

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