

Comment Submitted on Behalf Undersigned Faculty of

American University, Washington College of Law, Columbus School of Law of Catholic University of America, Howard University Law School, The George Washington University Law School, and University of the District of Columbia, David A. Clarke School of Law

In Support of Diploma Privilege

We, over 150 faculty members and assistant and associate deans from law schools across the District of Columbia: American University, Washington College of Law, Columbus School of Law of Catholic University of America, Howard University Law School, The George Washington University Law School, and University of the District of Columbia, David A. Clarke School of Law, submit this Comment in support of *In Re: Diploma Privilege for 2020 District of Columbia Bar Applicants*.

We commend the District of Columbia Court of Appeals for the care and consideration about the admission of new applicants to the Bar that it has shown over the last several months and appreciate the multiple opportunities the Court has afforded the area law schools to discuss the circumstances of the bar administration and the proposals for diploma privilege and limited practice. The Court's sincere interest in health, safety, and equity in the administration of the Bar Examination and in admission to the Bar has been evident throughout this unprecedented crisis. We now ask that the Court adopt a diploma privilege that would allow applicants who have registered for the October 2020 D.C. Bar Examination to be granted admission to the Bar without the requirement of the Bar Examination. This privilege could be crafted in a way that provides additional safeguards to address any lingering concerns about the readiness of applicants for practice. For example, the Court could mandate that applicants complete an online course or receive supervision from licensed attorneys for a limited period in those practices capable of providing this. Our law schools are available to cooperate in designing and coordinating these mechanisms.

Waiving the requirement of the Bar Examination would be a significant change to our system of licensure and oversight – a system that seeks to ensure that competent and qualified attorneys join the ranks of the Bar and take on a range of vital work to represent clients, particularly the most vulnerable among us. However, given the unprecedented global pandemic, we need to fashion alternatives that address the daunting pressures put on the functioning of this system for applicants, the profession, the courts, and the public. We have seen how the efforts regarding an online bar exam have proved inadequate to address the dire situation created by Covid-19. We believe that authorizing a diploma privilege is the most reliable, prudent, and equitable alternative for the District of Columbia.

As the Court knows, diploma privilege is not a new concept. Since 1870, Wisconsin has granted diploma privilege to students who graduate from in-state law schools. More recently, in response to COVID-19, Oregon, Utah, Louisiana, and Washington have already granted diploma privilege to 2020 law school graduates. Many other states are currently grappling with diploma privilege, limited practice, and other proposals to respond to this crisis. Diploma privilege would address some of the very serious inequities that are created by requiring the Bar Examination this year and are not solved by an online administration of the exam. For all graduates, this period has proven to be deeply unsettling. Our graduates completed their legal educations remotely and had to grapple with health, financial, and mental health challenges during this final phase of law school and as they transitioned to studying for the Bar. During this time, many of our graduates have been home-schooling and caring for children; nursing family members and themselves when they have fallen ill from the virus; suffering job losses themselves or in their families; and facing the deep and very real mental health and financial insecurities.

The Court's prudent decision to administer an on-line Bar Examination will result in fewer health and safety risks for many of our graduates. However, an on-line administration does not address and may even exacerbate the deep and significant inequities that preexisted the COVID-19 crisis and that have been amplified by the pandemic. Many of our law graduates lack reliable internet access and a quiet, distraction-free location where they can take an on-line exam, making the online Bar Exam offered in October an alternative rife with difficulties. Many are living in daily chaos with responsibilities to care for and support families in crisis. Those with caregiving responsibilities

are more likely to be women. These obstacles disproportionately affect law students of color and those with disabilities, who already are underrepresented in the legal profession. A Bar Examination administered under these circumstances would not be a reliable measure of their competence to enter the practice of law.

In addition, diploma privilege represents the most expeditious way to allow our graduates to enter the practice of law in D.C. First, many of our graduates are in dire need of income. They have graduated from law school in debt and the economic crisis has destroyed the safety net for many of our graduates. The temporary jobs many had during law school have ended. The same graduates who face the most challenges in studying for and sitting for the Bar Examination are those who are most in need of paychecks. Diploma privilege would allow these graduates to seek jobs and to fill those positions for which hiring has been postponed due to the pandemic and the delay of the bar administration.

Second, the need for free legal services in the District of Columbia is crushing. Postponing the admission of our graduates to the Bar will present an additional barrier to access to justice in our city. This pandemic daily lays bare a host of new, complex crises facing our city – ones that may well have legal solutions. Our most vulnerable residents are in dire need of legal representation and our 2020 graduates could help fill that gap, immediately.

Our graduates are well prepared and ready to serve on the front lines of the crisis facing our citizens. They have completed rigorous courses of study at our institutions, engaged in at least 6 mandatory credits in experiential learning, often many more at all of our institutions, and have shown enormous grit and perseverance in the face of an unprecedented global health and economic crisis.

The crisis created by Covid-19 has shown us that acknowledging the severity of the situation we are in and then taking action to promote a safe and equitable way to move forward are essential to us as a society. Our legal system is in the midst of adapting each day. Permitting our graduates to join the bar through a diploma privilege is the best way to refashion bar admission to address our terrible circumstances in a way that serves our graduates, the profession, the public, and our system of justice.

Respectfully submitted,

Abramowitz, Nancy	Professor of Practice	American University Washington College of Law
Adams, LaShanda	Associate Dean for Academic Affairs	UDC David A. Clarke School of Law
Alai, Padideh	Professor of Law	American University Washington College of Law
Allen, Hilary J.	Associate Professor	American University Washington College of Law
Anderson, Kenneth	Professor of Law	American University Washington College of Law
Assad, Michelle	Practitioner in Residence	American University Washington College of Law
Baker, Jonathan	Research Professor of Law	American University Washington College of Law
Baskaran, Priya	Assistant Professor of Law	American University Washington College of Law
Bawa, Jasbir	Assistant Professor of Lawyering	Howard University School of Law
Benitez, Alberto	Professor of Clinical Law	George Washington University Law School

Bennett, Susan	Professor of Law	American University Washington College of Law
Berman, Paul	Professor of Law	George Washington University Law School
Beske, Elizabeth Earle	Assistant Professor of Law	American University Washington College of Law
Brauneis, Robert	Professor of Law	George Washington University Law School
Brittain, John C.	Olie W. Rauh Professor of Law	UDC David A Clarke School of Law
Brown, Stephanie Y.	Professor of Law	UDC David A Clarke School of Law
Brown, Karen	Professor of Law	George Washington University Law School
Bruckner, Matthew	Associate Professor of Law	Howard University School of Law
Brustin, Stacy L.	Professor of Law	Catholic University of America School of Law
Budzinski, Andrew	Assistant Professor of Law	UDC David A Clarke School of Law
Campbell, Kristina M.	Professor of Law	UDC David A. Clarke School of Law
Carle, Susan D.	Professor of Law	American University Washington College of Law
Carrillo, Arturo J.	Clinical Professor of Law	George Washington University Law School
Carroll, Michael W.	Professor of Law	American University Washington College of Law
Chernicoff, Ann	Assistant Dean	American University Washington College of Law
Chuang, Janie	Professor of Law	American University Washington College of Law
Clarke, Donald	David Weaver Professor of Law	George Washington University Law School
Cottrol, Robert	Harold Paul Green Professor of Law	George Washington University Law School
Daskal, Jennifer	Associate Professor	American University Washington College of Law
Davis, Angela J.	Professor of Law	American University Washington College of Law
DeVigne, Renee	Associate Dean	George Washington University Law School
Drinan, Cara H.	Professor of Law	Catholic University of America School of Law
Duggin, Sarah	Professor of Law	Catholic University of America School of Law
Duru, N. Jeremi	Professor of Law	American University Washington College of Law
Epperson, Lia	Professor of Law	American University Washington College of Law
Everhart, Lisa A.	Clinical Assistant Professor of Law	Catholic University of America School of Law

Farley, Christine	Professor of Law	American University Washington College of Law
Ferguson, Andrew	Professor of Law	American University Washington College of Law
Fine, Susan	Associate Dean	George Washington University Law School
Fiorentino, Janet Ann	Legal Writing Instructor	UDC David A. Clarke School of Law
Fischer, Susanna	Associate Professor of Law	Catholic University of America School of Law
Fraidin, Matthew	Professor of Law	UDC David A. Clarke School of Law
Franck, Susan D.	Professor of Law	American University Washington College of Law
Frost, Amanda	Professor of Law	American University Washington College of Law
Gabaldon, Teresa	Lyle T. Alverson Professor of Law	George Washington University Law School
Gambert, Iselin	Professor of Legal Research	George Washington University Law School
Garcia, Bianca B.	Adjunct Associate Professor of Law	American University Washington College of Law
Gaskins, Tonya	Assistant Dean	Catholic University of America School of Law
Gibbs, Tianna	Assistant Professor of Law	UDC David A. Clarke School of Law
Glicksman, Robert	Professor of Law	George Washington University Law School
Gordon, Kathleen	Professor of Law	American University Washington College of Law
Green, Llezlie L.	Professor of Law	American University Washington College of Law
Grossman, Claudio	Dean Emeritus	American University Washington College of Law
Grossman, Lewis	Professor of Law	American University Washington College of Law
Goldman, Robert	Professor of Law	American University Washington College of Law
Gutman, Jeffrey	Professor of Clinical Law	George Washington University Law School
Hamilton, Rebecca	Associate Professor of Law	American University Washington College of Law
Hammond, Emily	Senior Associate Dean	George Washington University Law School
Harris, Lindsay M.	Associate Professor of Law	UDC David A Clarke School of Law
Heywood, John	Associate Professor of Law	American University Washington College of Law
Hortsch, Diana	Visiting Associate Professor	George Washington University Law School
Hochbaum, Ron	Assistant Professor of Law	UDC David A Clarke School of Law

Hughes, Heather	Professor of Law	American University Washington College of Law
Hunter, David	Professor of Law	American University Washington College of Law
Jackson, Suzanne	Professor of Clinical Law	George Washington University Law School
Johnson, David	Assistant Dean	George Washington University Law School
Johnson, Margaret	Visiting Professor of Law	American University Washington College of Law
Johnson, Stephanie	Adjunct Professor of Law	Howard University School of Law
Jones, Christine L.	Professor of Law	UDC David A. Clarke School of Law
Jones, Cynthia	Professor of Law	American University Washington College of Law
Jones, Susan	Professor of Clinical Law	George Washington University Law School
Karin, Marcy	Professor of Law	UDC David A Clarke School of Law
Kettler, Cheryl	Professor of Legal Writing	George Washington University Law School
Kleiman, Kathryn	Practitioner-In-Residence	American University Washington College of Law
Klein, Catherine	Professor	Catholic University of America School of Law
Kohn, Laurie	Associate Professor of Clinical Law	George Washington University Law School
Kraiem, Daniela	Practitioner in Residence	American University Washington College of Law
Kronick, Katie	Practitioner in Residence	American University Washington College of Law
Kurth, Paul	Associate Director	Catholic University of America School of Law
La Belle, Megan	Professor of Law	Catholic University of America School of Law
Laguarda, Fernando	Professorial Lecturer	American University Washington College of Law
Lebron, Anibal	Assistant Professor	Howard University School of Law
Lee, Philip	Professor of Law	UDC David A Clarke School of Law
Leff, Benjamin M	Professor of Law	American University Washington College of Law
Lewis, Laurie A.	Clinical Associate Professor of Law	Catholic University of America School of Law
Lubbers, Jeffrey	Professor of Practice	American University Washington College of Law
Martin Barry, Margaret Law	Visiting Professor of Law	American University Washington College of
Martin, Claudia	Professorial Lecturer	American University Washington College of Law

May, James	Professor of Law	American University Washington College of Law
McGonnigal, Michael	Clinical Assistant Professor of Law	Catholic University of America School of Law
Meier, Joan	Professor of Clinical Law	George Washington University Law School
Mendez, Juan Ernesto	Professor of Law	American University Washington College of Law
Miles, Veryl	Professor of Law	Catholic University of America School of Law
Miller, Binny	Professor of Law	American University Washington College of Law
Millward, Jessica	Practitioner in Residence	American University Washington College of Law
Milstein, Elliott	Professor of Law	American University Washington College of Law
Molinengo, Hank	Senior Associate Dean	George Washington University Law School
Morrison, Alan	Associate Dean	George Washington University Law School
Nicola, Fernanda	Professor of Law	American University Washington College of Law
Olesen, Anne	Professor of Clinical Law	George Washington University Law School
Olivares, Mariela	Professor of Law	Howard University School of Law
Onkeles-Klein, Lauren	Practitioner in Residence	American University Washington College of Law
Orentlicher, Diane	Professor of Law	American University Washington College of Law
Outlaw, Lucius	Associate Professor of Law	Howard University School of Law
Payne-Tsoupros, Christina	Academic Success Instructor	UDC David A. Clarke School of Law
Pelton, Erik M.	Adjunct Professor of Law	Howard University School of Law
Peterson, Todd	Professor of Law	George Washington University School of Law
Phillips, Victoria	Professor of Law	American University Washington College of Law
Pileri, Joseph	Practitioner in Residence	American University Washington College of Law
Popper, Andrew	Professor of Law	American University Washington College of Law
Postar, Adeen	Professor of Practice	American University Washington College of Law
Quinn, Mae C.	Associate Professor of Law	UDC David A. Clarke School of Law
Rathod, Jayesh	Professor of Law	American University Washington College of Law
Ridenour, Heather	Legal Rhetoric Instructor	American University, Washington College of Law
Robbins, Ira P.	Professor of Law	American University Washington College of Law

Roberts, Jenny	Professor of Law	American University Washington College of Law
Robinson, Alfreda	Associate Dean for Trial Advocacy	George Washington University Law School
Rodríguez-Pinzón, Diego	Professorial Lecturer	American University Washington College of
Ross, Josephine	Professor of Law	Howard University School of Law
SaCouto, Susana	Asst Prof of Lawyering Skills	American University Washington College of Law
Saez, Macarena	Faculty Director	American University Washington College of Law
Schaffner, Joan	Associate Professor of Law	George Washington University Law School
Schaufele, Anne	Practitioner-in-Residence	American University Washington College of Law
Schneider, Valerie	Associate Professor of Law	Howard University School of Law
Schoenbaum, Naomi	Professor of Law	George Washington University Law School
Schooner, Heidi Mandanis	Professor of Law	Catholic University of America School of Law
Scordato, Marin	Associate Dean	Catholic University of America School of Law
Shalleck, Ann	Professor of Law	American University Washington College of Law
Sinha, Anita	Associate Professor of Law	American University Washington College of Law
Smith, Brenda V.	Professor of Law	American University Washington College of Law
Snape, William	Practitioner in Residence	American University Washington College of Law
Snyder, David V.	Professor of Law	American University Washington College of Law
Spratt, David	Professor of Law	American University Washington College of Law
Steinberg, Jessica	Associate Professor of Clinical Law	George Washington University Law School
Suter, Sonia M.	Professor of Law	George Washington University Law School
Thomas, Alice M.	Associate Professor	Howard University School of Law
Tillipman, Jessica	Assistant Dean	George Washington University Law School
Toussaint, Etienne	Assistant Professor of Law	UDC David A Clarke School of Law
Trangsrud, Roger	Professor of Law	George Washington University Law School
Tsai, Robert	Professor of Law	American University Washington College of Law
Tuchinda, Nicole	Visiting Assistant Professor	UDC David A. Clarke School of Law

Van Wye, Sarah	Assistant Professor of Law	Howard University School of Law
Weisburd, Kate	Associate Professor of Law	George Washington University Law School
Weiss, Brandon	Associate Professor	American University Washington College of Law
Wermiel, Stephen	Professor of Practice	American University Washington College of Law
Wick, Caroline	Practitioner in Residence	American University Washington College of Law
Wiley, Lindsay	Professor of Law	American University Washington College of Law
Wortham, Leah	Professor of Law	Catholic University of America School of Law
Yukins, Christopher	Professor of Law	George Washington University Law School
Young, Julie Cromer	Visiting Professor of Practice	American University Washington College of Law
Zytnick, Kiva	Associate Director Pro Bono Program	Catholic University of America School of Law