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Law, beyond reach of many AS I SEE IT

By Michael L. Coyne

Tuition costs at law schools accredited by the American Bar Association (ABA) have doubled in the last nine years. Total inflation during that same period was less than 25 percent. In days gone by, people found their way up the social ladder that a law degree can provide through summer jobs and help from Mom and Dad. Mortgages, bonds, and long-term loan forgiveness programs are now needed to pay for the cost of a law degree at an ABA law school.

With ever-escalating tuitions and access to loans dwindling, our country's middle class finds itself hard-pressed to see the promise of opportunity that a law degree provides as nothing more than a mirage on an ever-elusive horizon. Nowhere is the need for reform of higher education more obvious than in legal education.

Fifteen years ago, the ABA tried to kill the innovative Massachusetts School of Law (MSL) model of legal education. The MSL model is a highly successful, practice-based, lower-cost method of legal education patterned after the medical school approach to higher education. The ABA was worried that affordable law schools could be a threat to its gatekeeper function of restricting affordable access to legal education and thus the legal profession. The ABA's opposition to MSL's innovative approach to legal education, as well as MSL's success, led to MSL working with the United States Department of Justice's (DOJ) Antitrust Division, which filed an antitrust action against the ABA.

The ABA ultimately entered a 10-year consent decree eliminating a number of its illegal, needlessly cost-increasing requirements and allowing the DOJ some oversight over its control of legal education. It is now clear the DOJ's actions in 1996 were akin to putting a bandage on a bullet wound. The ABA continues its monopolistic control over access to legal education, imposing its costly outdated model of 19th century legal education on all ABA law schools, where annual tuitions have now reached \$50,000, with \$60,000 annual tuitions likely just three years away.

But the ABA should worry. MSL is now nationally recognized for its effectiveness at training law students and its success in winning various regional and national advocacy awards. Legal journals are reporting on the growing number of ABA law school graduates vocal about having been forced to sacrifice their lives on the altar of high ABA law school tuitions.

With little training in how to actually practice law and often owing in excess of \$100,000 in tuition loans alone, many graduates bitterly complain that their third- and fourth-tier ABA law schools did nothing to help advance their careers other than confer upon them a near worthless — but very expensive — degree. The ABA last year conceded that because of the high tuitions at ABA law schools, attending law school can become “a financial burden for law students.”

And there is even worse news. For the most part, this scam has not affected African-Americans, as they are not encouraged to attend ABA law schools to begin with. In fact, African-Americans represent less than 4 percent of the members of the legal profession, although they represent 13.5 percent of our population. Long under the control of the ABA, the legal profession is by far the whitest and most elitist of all the professions.

Despite espousing concern for more diversity in the legal profession, the ABA law school standards continue to charge exorbitant tuitions and require the use of the discriminatory Law School Admission Test (LSAT), even though it knows the test has no relationship to success in the practice of law or even in completing law school. Its standards force law school tuitions ever higher, disproportionately impacting people of color and others from the working class.

The ABA points to its efforts to diversify the profession, but its words ring hollow; each year sees a decline in African-American enrollment in ABA law schools. Those interested in providing justice for all and a representative legal profession must move past self-serving conferences and high-toned speeches.

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Allow innovative, low-cost colleges and law schools to develop. Let those schools compete on an even footing with the barons in their ivy-towered campuses. Allow the graduates of all our law schools to take every state's bar examination and compete in the marketplace. It should not be easier for a lawyer from Greece or China to take the New York bar examination than it is for a native New Yorker who is now a Massachusetts lawyer, simply because that New Yorker chose an affordable path to law school.

Americans have a God-given right to higher education. It is the promised path to a better future that every generation of Americans has passed on to those that followed. Let freedom and innovation ring. We will then be able to provide the "justice for all" that the inscription above our Supreme Court promises.

Michael L. Coyne is the Associate Dean of the Massachusetts School of Law. Contact him at Coyne@msslaw.edu.

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