IN THE SUPREME COURT OF PENNSYLVANIA

Alexander David Keely *Petitioner.*	No. _____

APPLICATION FOR EXTRAORDINARY RELIEF UNDER THIS COURT'S GENERAL POWERS AND KING'S BENCH JURISDICTION

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I. INTRODUCTION

This Court's general authority and King's Bench jurisdiction empower it to address the constitutionality of issues threatening the integrity of the Commonwealth's judicial system and matters of immediate public importance.[1] For over a century, Pennsylvania's bar admissions rules have unjustly perpetuated discriminatory barriers, denied qualified individuals access to the legal profession, and undermined public confidence in a fair and equitable judiciary. These activities occurred while every branch of the Pennsylvania government recognized that racial minorities and lower and middle-income residents have struggled to achieve the American dream without the necessary access to justice support needed to solve their most pressing and life-altering legal challenges.

This petition references this Court's exclusive jurisdiction over bar admissions rules and argues for removing the unwarranted and discriminatory impediments to the bar by describing how the past adoption of the American Bar Association ("ABA")-accreditation monopoly in legal education qualifications violates the fundamental rights of Petitioner. Constitutional protections apply to the fundamental right to work, which is incorporated in the liberty and property interests codified by the people in the Fifth and Fourteenth Amendments.[2]

[1] *In re Bruno*, 627 Pa. 505, 565, 101 A.3d 635, 671 (2014).
[2] U.S. CONST. amends. V, XIV.

Historically legitimate professional licensing restrictions on the fundamental right to work are often and appropriately given only rational basis scrutiny, with much deference given to the states. However, this petition will demonstrate that U.S. Supreme Court precedents in similar constitutional rights cases require this Court to hold that restrictions created outside of historically acceptable limitations on fundamental rights are unconstitutional. This petition proves that the current ABA-accreditation requirement falls entirely outside the bounds of historical and Supreme Court-defined professional licensing limitations on individual qualifications, forcing a monopoly in legal education providers that must not be used to prevent or substantially delay well-qualified applicants' access to the bar.

In addition to violations of historical professional licensing limitations, this petition demonstrates how Pennsylvania's adoption of ABA's racially discriminatory practices has invidiously discriminated against Petitioner and other Blacks and minorities. These actions violate the Equal Protection and Due Process Clauses of the Constitution, the Civil Rights Act of 1964, and Pennsylvania's Human Relations Act ("PHRA") through a combination of discriminatory impact and purpose behind this monopoly in legal education.

Finally, this petition argues that, aside from all other arguments, procedural due process rights require Pennsylvania to conduct individual assessments of educational qualifications before preventing Petitioner's ability to practice law in

the state. Alternatively, Petitioner argues that this Court has already implemented rules that satisfy traditional goals of preventing fraud and harm to the public through existing professional licensing requirements, including the bar examination, professional responsibility tests, and background investigations, which appropriately safeguard competency to practice law and justify removing the education requirement altogether.

Petitioner is compelled to seek extraordinary relief because this Court's past creation of the ABA-monopoly is an entrenched violation of individual constitutional rights and the public's right to a fair and accessible bar. While the Court may be hesitant to overhaul these rules, reforming the bar is essential to align with the historical and non-discriminatory professional licensing standards that Petitioner's and other Pennsylvanians' constitutional rights demand. By utilizing plenary authority to review and revise these harmful rules, the current Court can remove long-standing discrimination, uphold its constitutional mandate to regulate the bar, restore trust in the judiciary, and provide Pennsylvanians greater access to justice by opening the bar to all qualified applicants.

II. PETITIONER

Petitioner, Alexander David Keely, 40, is a resident of Chambersburg, Pennsylvania, where he lives with his wife and five children. Petitioner is an Eagle Scout, former All-American National Collegiate Athletic Association ("NCAA")

swimmer, and volunteer Firefighter Paramedic. Ethnically, he is the son of an American Irish and European mother and a naturalized American immigrant father from Barbados. He is the son of U.S. Marines and stepparents who dedicated their lives to protecting the constitutional rights of Americans across this country for decades. Petitioner grew up attending schools in Pennsylvania, graduating from Mercersburg Academy and then Dickinson College, where he earned his Bachelor of Arts in International Studies while leading multiple student community service organizations, including Rotary International and Alpha Phi Omega.[3]

Petitioner later earned his Master of Science in Information Technology with highest honors from American Public University in Charles Town, West Virginia, in 2018 before starting at Purdue Global Law School ("PG Law") in early 2021.[4] Petitioner has worked in information security for over a decade in the private and public sectors, where he has helped secure and defend the United States' critical information systems.

In 2024, Petitioner graduated from PG Law, earning twenty-four (24) highest grade awards in individual classes and graduating with highest honors as the valedictorian of his class.[5] Shortly after graduation, he passed the Uniform Bar Exam ("UBE") in the estimated 98th percentile of all test takers from all law

[3] *About*, Empowerment L., https://www.empowermentlaw.com/about/ (last visited June 11, 2025).
[4] *Id.*
[5] *Id.*

schools.[6] Petitioner was then admitted to the Connecticut state bar and desires to practice law in the Commonwealth of Pennsylvania by joining the mandatory state bar. However, because of existing bar admissions rules approved and governed by this Court, Petitioner's request for a transfer of his passing UBE and Multistate Professional Responsibility Examination ("MPRE") scores would be fruitless and wasteful of his family's funds. This result is not due to his individual qualifications, but rather to one discriminating factor–he did not attend an ABA-accredited law school.

III. JURISDICTION

This Court has jurisdiction pursuant to 42 Pa.C.S.A. § 502, which references general powers of the Supreme Court of Pennsylvania and King's Bench authority under 210 Pa. Code Rule 3309(a) for extraordinary relief. The rule specifically provides relief under 42 Pa.C.S.A. § 726 for matters of immediate public importance or within the powers reserved to the Supreme Court in "Section 1 of the Schedule to the Judiciary Article."

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[6] *See The Uniform Bar Examination (UBE) 2024 Statistics*, National Conference of Bar Examiners ("NCBE"), https://thebarexaminer.ncbex.org/2024-statistics/the-uniform-bar-examination-ube/ (last visited June 11, 2025) (Estimated from 2024 February UBE statistics); NCBE reported lower exam scores for the Feb. 2025 administration, which may indicate Petitioner earned a higher percentile ranking); *See National Bar Exam Scores Fall to Historic Low in February 2025*, Legal.io (Mar. 29, 2025), https://www.legal.io/articles/5586661/National-Bar-Exam-Scores-Fall-to-Historic-Low-in-February-2025.

The Court's powers in Section 1 include the explicit review of the constitutionality of judicial administration matters concerning bar admission, as in PA. CONST. art. V, § 1, 2, & 10(c). In addition, this Court has jurisdiction under its King's Bench authority to decide this application and order the requested relief to "cause right and justice to be done" in this matter involving "an issue of immediate public importance" according to 42 Pa.C.S.A. § 726. Pennsylvania's discrimination concerning bar admission rules has contributed to an ever-growing and severe access to justice issue, resulting in hundreds of thousands of Pennsylvanians lacking support for their legal problems annually.

IV. FACTUAL BACKGROUND

The right to work is a cornerstone of American liberty and deeply woven into the fabric of our founding principles as articulated in the Declaration of Independence's promise that "all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness."[7] However, exclusionary bar admission rules in Pennsylvania, shaped by the ABA's discriminatory practices, stifle this fundamental right, limiting access to the legal profession and deepening the state's access to justice crisis. This section traces the historical and modern dimensions of

[7] *Declaration of Independence (1776)*, National Archives, para 1, https://www.archives.gov/milestone-documents/declaration-of-independence.

this barrier, weaving together its impact on diversity in the legal profession, the urgent need for legal services in Pennsylvania, and Petitioner's qualifications for bar admission.

A. The fundamental right to work is inextricably linked to constitutional liberty and property rights.

The American Revolution was ignited by grievances over taxation without representation, a policy that curtailed colonists' freedom to pursue their chosen occupations and retain their earned property. The Declaration of Independence crystallized the vision that these liberty and property rights endure throughout time, inextricably linked with other fundamental rights because of their united goal of enabling sovereign people to have the freedom to pursue their desired version of happiness.[8]

After the revolution, James Madison eloquently reaffirmed this liberty and property association to the right to work by writing in The Federalist No. 10, published in November of 1787, that the "diversity in the faculties of men, from which the rights of property originate, is not less an insuperable obstacle to a uniformity of interests. The protection of these faculties is the first object of government."[9] The concept of a fundamental right to pursue one's passion through

[8] *See Id*., at para 5.
[9] James Madison, *The Federalist Papers: No. 10*, Yale L. Sch., (Nov. 23, 1787), at para. 6, https://avalon.law.yale.edu/18th_century/fed10.asp.

learning and choosing an occupation was established well before America's founding and has been recognized throughout American history.

> The right to follow any of the common occupations of life is an inalienable right, it was formulated as such under the phrase 'pursuit of happiness' in the Declaration of Independence, which commenced with the fundamental proposition that 'all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness.' This right is a large ingredient in the civil liberty of the citizen.[10]

The Supreme Court continued to apply the fundamental right to work, as established in federal protections through the Bill of Rights in the Fifth Amendment, adopted in 1791, to the states in the *Slaughter-House* case in 1884 through the Privileges and Immunities Clause of the Constitution and the Fourteenth Amendment.[11]

While many Supreme Court cases have reinforced a fundamental right to work in terms of choosing an occupation, later cases seem to have been construed by some to argue against a fundamental right to work, including the right to practice law. Yet, in cases like *Edelstein v. Wilentz* from the Third Circuit U.S. Court of Appeals, which refrained from recognizing the fundamental right to work

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[10] *Butchers' Union Slaughter-House & Live-Stock Landing Co. v. Crescent City Live-Stock Landing & Slaughter-House Co*., 111 U.S. 746, 765–66, 4 S.Ct. 652, 659 (1884) (Bradley, J. with Harlan and Woods, JJ., concurring).

[11] *Id.; See id.*, at 757 (Field, J., concurring citing ADAM SMITH, WEALTH OF NATIONS, ch. 10 (1776) ("the property which every man has in his own labor, as it is the original foundation of all other property, so it is the most sacred and inviolable.")).

or practice law, the main differentiating factor lies in the distinction between the fundamental right to work and the lack of a right to employment by a third party.

The California Court of Appeals in *Townsend*, citing the California Supreme Court, understood this distinction and stated that the court does "not question that there is a 'fundamental right' to pursue a lawful occupation … However, plaintiff's fundamental right to practice law … does not encompass the right to work for a particular employer, whether that employer be public or private."[12] While there remains a fundamental right to work and choose one's occupation,[13] there is no federal constitutional right to force an employer to hire an individual or maintain their employment.[14] As both of these concepts are logically independent, the inability to force employment does not alter the continuing fundamental right to work in America, which has been established as an inalienable right for centuries. This enduring principle sets the stage for examining the history behind acceptable licensing practices that limit this fundamental right.

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[12] *Townsend v. Cnty. of Los Angeles*, 49 Cal. App. 3d 263, 267, 122 Cal. Rptr. 500, 502 (Ct. App. 1975) (citing *Purdy & Fitzpatrick v. State of Cal.*, 71 Cal.2d 566, 579, 79 Cal.Rptr. 77, 456 P.2d 645 (Cal. 1969); *Raffaelli v. Comm. of Bar Exam'r*, 7 Cal.3d 288, 293-294, 101 Cal.Rptr. 896, 496 P.2d 1264 (Cal. 1972)).

[13] *See Corfield v. Coryell*, 6 F. Cas. 546, 552 (C.C.E.D. Pa. 1823) (listing "professional pursuits" as privileges and immunities, recognizing constitutional protection for occupational freedom).

[14] *See The Bd. of Regents of State Colleges v. Roth*, 408 U.S. 564, 578–79, 92 S.Ct. 2701, 2710, 33 L. Ed. 2d 548 (1972); *See Bishop v. Wood*, 426 U.S. 341, 348, 96 S.Ct. 2074, 2079, 48 L. Ed. 2d 684 (1976).

B. Historical limitations on professional licensing utilized qualifications and examinations to validate competency and prevent fraud.

While the fundamental right to work has been an inseparable part of America's founding, government licensing of professions has attempted to safeguard the public from fraud and incompetence. A long history of licensing began in England with the craft guilds of the Middle Ages, the Inns of Court in the 1300s, and the Royal College of Physicians' licensing of the 1500s.[15] Without factoring in monopolistic, self-serving, and discriminatory motivations, American colonists continued professional licensing to the present time to "combat consequences of ignorance and incapacity, as well as of deception and fraud and to fulfill the government's responsibility, from time immemorial, to exact in many pursuits a certain degree of skill and learning upon which the community may confidently rely."[16]

Inseparable from the long history of licensing were applicants' qualifications and testing to determine competency for licensure in the legal profession. In the 1600s, apprenticeships and clerkships were the first training methods adopted by new American lawyers.[17] After all colonies established a professional bar by the

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[15] *Veterans Guardian VA Claim Consulting LLC v. Platkin*, 133 F.4th 213, 224–25 (3d Cir. 2025).
[16] *Id.* (citing *Dent v. West Virginia*, 129 U.S. 114, 122 (1889)).
[17] Katlin Kiefer, *The History of the U.S. Bar Exam, Part I – The Law's Gatekeeper*, Libr. of Cong., para. 2 (Feb. 13, 2024), https://blogs.loc.gov/law/2024/02/the-history-of-the-u-s-bar-exam-part-i-the-laws-gatekeeper/.

1750s, the first oral examinations by judges began in 1783.[18] By the mid-1800s, written bar exams improved upon the potential for leniency and variation in oral exams.[19] The majority of states adopted a written exam by the 1920s,[20] coinciding with the formation and growing prominence of the ABA.

The so-called "diploma privilege" gained substantial popularity from the late 1800s until the 1920s, providing automatic bar admission after graduation from an American law school.[21] However, this licensing method was short-lived as the ABA declared a preference for licensing based on independent performance assessments through the written bar exam, a policy that the majority of states later adopted.[22]

C. Pennsylvania and ABA's history of purposeful racial and minority discrimination limit access to the legal profession.

While the right to work is a bedrock of American liberty, Pennsylvania and the ABA have historically imposed discriminatory barriers that excluded minorities and women from the legal profession. Pennsylvania's overt discrimination against Blacks and women in the bar solidified in 1838 with a revision to the state Constitution that limited citizenship rights, including voting and the ability to

[18] *Id.*
[19] *Id.* at para. 3.
[20] *Id.* at para. 6.
[21] *Id.*
[22] *Id.*

practice law, to only White men.[23] Blacks who were some of the first of their race to graduate from college, complete judge clerkships, and apply for the bar in Pennsylvania, as in the case of George Boyer Vashon, were denied admission in the 1840s through the 1860s because of race.[24] When Blacks started increasing attendance in private law schools after the Civil War, the ABA and the American Association of Law Schools ("AALS") launched an overt campaign of discrimination that increased education requirements before law school and limited access to the bar in some states to only graduates of ABA-accredited law schools.[25]

Attending law school became even more difficult with the ABA's creation of significant obstacles to prevent the entry of minorities and women in the early 1900s. In line with earlier American Medical Association ("AMA") discrimination successes in impeding minorities from becoming medical doctors, the ABA created a covert campaign of discrimination. These obstacles included the purposeful discrimination against minorities and women through increased costs of tuition and pre-admission requirements, exclusion of minority friendly and accessible schools, and additional examinations covering subjects not taught in the general schooling

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[23] Catherine M. Hanchett, *George Boyer Vashon 1824-1878 Black Educator, Poet, Fighter for Equal Rights Part One*, 68 THE W. PA HIST. MAG. 205, 208 (July 1985).
[24] Jennifer C. Yates, *Black Scholar Denied Pa. Law License in 1847 Admitted to State Bar*, Diverse: Issues in Higher Education (May 4, 2010), https://www.diverseeducation.com/demographics/african-american/article/15089605/black-scholar-denied-pa-law-license-in-1847-admitted-to-state-bar.
[25] George B. Shepherd, *No African-American Lawyers Allowed: The Inefficient Racism of the ABA's Accreditation of Law Schools*, 53 J. LEGAL EDUC. 103, 109-110 (2003).

curriculum.[26] These actions focused law school and bar admissions on factors outside of an individual's merit, knowledge, and ability to practice.

By the 1940s, law schools geared toward minorities were shutting down because of this pressure, and these new covert discriminatory and more generally applicable requirements ensured fewer minorities became lawyers than with the associations' prior express exclusion of Blacks, women, and other minorities.[27] Similar overt discrimination tactics against women occurred with wide acceptance in AALS committees led by Harvard Law School's dean Erwin Griswold in 1951, assuring members that there would never be a great acceptance of women lawyers because the new so-called anti-racial discrimination "policy was never to give any man's place to a woman."[28] The ABA finally ceased its express racial discrimination in the 1940s when it became unpopular, and the Supreme Court later held that public law schools could not exclude Blacks in the 1950s.[29] However, from the 1950s through the early 1970s, most ABA-accredited law schools had not admitted a single Black student.[30] In 1970, Pennsylvania was one of four states outside of the South to have over 1 million Blacks, yet the state only

[26] *Id.* at 112-113.
[27] *Id.* at 113.
[28] William C. Kidder, *The Struggle for Access from Sweatt to Grutter: A History of African American, Latino, and American Indian Law School Admission, 1950-2000*, 19 HARVARD BLACKLETTER L. J. 1, 16 (2003).
[29] *Id.* at 109.
[30] *Id.* at 5.

had approximately 140 Black lawyers, which was considered "scandalous," according to a Philadelphia Bar Association committee.[31]

The ABA's practices increased law school tuition beyond the 1950s for many decades,[32] and new policies demanded additional law school entry requirements, such as the Law School Admission Test ("LSAT"), which further limited diversity.[33] At the AALS meeting in 1969, Professor Derrick Bell, a member of the organization's Black Caucus of Law Teachers, noted the group's strong opposition of the LSAT, which they viewed as "a device to exclude [B]lacks from law schools," instead of using more fair and generally applicable alternative admissions criteria.[34] Nationally, ABA's discrimination continues to limit law school diversity, as when compared to the 2020 Census of Blacks overall (12.4%), the percentage of Blacks in ABA law schools (7.7%) continued to fail to represent overall society, which comprises ~38% fewer Blacks in ABA schools,[35] and ~64% fewer Blacks practicing law nationwide (4.5%).[36]

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[31] *Id.* at 8.
[32] *Id.* at 131.
[33] Deseriee A. Kennedy, *Access Law Schools & Diversifying the Profession*, 92 TEMPLE L. REV. 800, 802 (2020).
[34] *Proceedings of the Annual Meeting of the Association December 28, 29 and 30, 1969*, 1969 AALS Proceedings 33 (1969) at 146-7.
[35] *Profile of the Legal Profession: Legal Education,* A.B.A. (July 2022), https://www.abalegalprofile.com/legal-education.php.
[36] *Profile of the Legal Profession: Demographics,* A.B.A. (July 2022), https://www.abalegalprofile.com/demographics.php; *See* Nicholas Jones, Rachel Marks, Roberto Ramirez, & Merarys Rios-Vargas, *2020 Census Illuminates Racial and Ethnic Composition of the Country*, U.S. Census Bureau (Aug. 12, 2021),

After the Civil Rights Act of 1964 was passed to eliminate employment discrimination, Pennsylvania implemented the ABA's discriminatory tactics by approving changes to the rules in 1971 to limit bar access to only those graduates of ABA-accredited law schools.[37] Unlike what this Court said in *Kartorie* (1979) that "[n]o rule, principle, or doctrine is more firmly established in this Court's jurisprudence than the requirement of graduation from an A.B.A. approved law school,"[38] Pennsylvania went through centuries prior without that requirement. Pennsylvania's adoption of the ABA education monopoly has a direct impact on law firm diversity within the state. An ABA report notes that California, the state accepting the most non-ABA accredited schools, was cited as having "particularly strong" law firm diversity, with five of the top ten metropolitan areas in the country having the highest percentage of minority law partners.[39] On the other hand, Pennsylvania, which does not accept any non-ABA accredited schools, is home to the metropolitan area of Pittsburgh, which has the lowest percentage of minority law firm partners in the entire country, at 2%.[40]

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https://www.census.gov/library/stories/2021/08/improved-race-ethnicity-measures-reveal-united-states-population-much-more-multiracial.html.

[37] *Modern Bar Examination*, Pa. Bd. of Law Exam'r (June 24, 2023), https://www.pabarexam.org/board_information/history/modern.htm.; *Appeal of Murphy*, 482 Pa. 43, 45, 393 A.2d 369, 370 (1978).

[38] *Appeal of Kartorie*, 486 Pa. 500, 502, 406 A.2d 746, 747 (1979).

[39] *Profile of the Legal Profession 2024: Demographics*, A.B.A. (Nov. 2024), https://www.americanbar.org/news/profile-legal-profession/demographics/ (citing the National Association for Law Placement 2023 Report on Diversity in U.S. Law Firms) (last visited Mar. 16, 2025).

[40] *Id.*

In recent years, the ABA switched tactics to continue its façade of promoting diversity, equity, and inclusion, while maintaining ongoing covert discriminatory policies that impede access to the profession because of race. Modern racial discrimination accusations have been raised against the ABA and throughout its law school admissions, hiring, and judicial clerkship programs. The organization modernly reentered a campaign of overt and express policies promoting racial discrimination against Whites. This resulted in twenty-one state attorneys general submitting a demand letter in June 2024 to stop the ABA's alleged racial discrimination in law school admissions and faculty hiring practices nationwide, accusing the organization of violating the Constitution and Title VII of the Civil Rights Act.[41]

Along with discrimination in entry to law school and faculty positions, the Wisconsin Institute for Law & Liberty ("WILL") filed a civil rights complaint with the Department of Education in May 2024, accusing the ABA and three of its universities of discriminating against White students and graduates seeking judicial clerkships.[42] The arguments against the organization presented claims of the

[41] *Attorney General Marshall and 21-State Coalition Demand American Bar Association Stop Requiring Racial Discrimination in Law School Admissions and Hiring*, Off. of the Att'y Gen. (June 6, 2024), https://www.alabamaag.gov/attorney-general-marshall-and-21-state-coalition-demand-american-bar-association-stop-requiring-racial-discrimination-in-law-school-admissions-and-hiring/.

[42] *WILL Files Formal Civil Rights Complaint Against the American Bar Association and Institutions of Higher Education Across America for Discriminatory Practices*, WILL (May 21,

ABA's continuing violation of the Supreme Court's decision in *Students for Fair Admissions, Inc. v. President & Fellows of Harvard College*, through alleged violations of federal law in their Title VI complaint.[43]

D. Access to justice problems in Pennsylvania are increased by the judicial system's discrimination against non-ABA legal training.

The lack of access to justice in Pennsylvania that plagues low-income and minority residents continues to grow. Over the last 20 years, the Pennsylvania General Assembly led multiple investigations, reports, and actions to combat the adverse effects of residents' lack of access to the legal system. However, while legal aid programs exist to help those in poverty, most of their legal needs and those of the middle class are left unaddressed due to a lack of lawyers available to assist.

The Office for Access to Justice within the U.S. Department of Justice ("DOJ") has emphasized the need to support nationwide legal aid programs, public defender offices, and prosecutorial agencies, particularly in smaller communities and rural areas.[44] While the Pennsylvania Bar Association and state legislature have initiated grants to fund access to justice programs, their research still indicates

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2024), https://will-law.org/will-files-formal-civil-rights-complaint-against-the-american-bar-association-and-institutions-of-higher-education-across-america-for-discriminatory-practices/.

[43] *Id.*

[44] *Access to Justice Prize*, U.S. Dep't of Just., Off. for Access to Just. (Feb. 18, 2025), https://www.justice.gov/atj/access-justice-prize.

these programs are not effectively addressing the widening access to justice gap for residents.[45]

According to Legal Services Corporation ("LSC") data, the northeast sector of the U.S., encompassing Pennsylvania, experiences over 387,000 eligible legal problems annually, but at least 72% of those support requests remain unmet.[46] Low-income families are often in need of support for serious problems relating to the security of their family, with over 50% of their legal issues relating to housing, domestic relations, or safety concerns.[47]

Without access to justice for these families concerning substantial or life-altering issues, their ability to achieve the American dream is inhibited because of the lack of legal support. In 2016, a bipartisan coalition of the Pennsylvania legislature found that a longstanding and growing problem exists with residents' inability to access legal services in our state. The lack of access prevents those affected from exercising their constitutional rights to counsel and legal support, which the legislature classified as a "basic human need" for residents.[48]

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[45] *What We Do*, Pa. Bar Found., https://www.pabar.org/site/Foundation/What-We-Do/ (last visited Mar. 12, 2025).
[46] *The Justice Gap: Section 6: Reports from the Field,* LSC, https://justicegap.lsc.gov/resource/section-6-reports-from-the-field/ (last visited Mar. 16, 2025).
[47] *Id.*
[48] *Report on the Use of the AJA: The Commonwealth's Access to Justice Act*, Pa. Gen. Assembly, Legis. Budget and Fin. Comm., 12 (Oct. 2016), https://palegalaid.net/sites/default/files/attachments/2018-04/Report-on-Use-of-AJA-October-2016%5B1%5D.pdf.

Unfortunately, over 50% of Pennsylvania residents seeking legal aid services do not receive help due to funding constraints.[49] This Court's Interest on Lawyer's Trust Accounts ("IOLTA") board cited an LSC report that found even more residents needing legal help did not seek it, estimating that only 20% of the actual legal need for support is met by current aid programs.[50]

E. Pennsylvania's history of adopting discriminatory ABA bar admission rules and the former education waiver option.

Compounding these issues, the ABA's accreditation policies bar fully online law schools, like PG Law, from accreditation regardless of their quality. According to the ABA's Section of Legal Education and Admissions to the Bar, approved law schools may only grant up to 50 percent of the total credit hours within a JD program through distance education or online methods.[51] ABA law schools must maintain requirements regarding their legal education programs in Standards 301-315, while also ensuring that a minimum of 75 percent of their graduates pass the bar examination within a two-year period.[52] Unfortunately, these standards create a stigma for law school applicants and prevent fully online law schools, like PG Law, from undergoing an ABA assessment to determine the quality of their JD

[49] *Id.* at S-2.
[50] *2017 Justice Gap Report*, LSC, 1-2 (June 2017), http://www.lsc.gov/mediacenter/publications/2017-justice-gap-report.
[51] *A Guide to ABA Approved Distance Education*, A.B.A. (Dec. 19, 2024), https://www.americanbar.org/groups/legal_education/resources/distance_education/.
[52] *See generally Chapter 3: Program of Legal Education*, A.B.A., https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/standards/2024-2025/2024-2025-standards-chapter-3.pdf (last visited June 11, 2025).

programs or compliance with ABA requirements based on the merit of their legal pedagogy.

Pennsylvania Bar Admissions Rule 102(a) limits the licensing of lawyers to only those who graduate from law schools accredited by the ABA.[53] According to ABA accreditation Standard 105(a)(12)(i), the organization will not accredit fully online programs without special approval, which has only been permitted for a select number of existing ABA law schools.[54] Although nearly all law schools transitioned from in-person to online classes during the prolonged COVID-19 restrictions, the ABA continues to discriminate against fully online law schools solely because of the instruction method used, rather than evaluating the effectiveness of their programs.

These ABA restrictions have limited access to alternative learning methods, including state-accredited law schools that offer quality legal education free from the ABA's discriminatory practices. This unmeritorious restriction greatly hinders minorities, students with disabilities, and low-income families from entering the profession. Minority and disabled students can significantly benefit from online learning in law school, as they do in other higher education programs. These disadvantaged groups often lack the same ability to relocate to attend brick-and-

[53] 204 Pa. Code 71 r. 102.
[54] A.B.A., *Distance Education*, supra n. 52.

mortar schools and more frequently have significant family, work, or community responsibilities that require schedule flexibility, which would otherwise prevent their attendance in traditional higher education venues.[55]

The national impact of these discriminatory ABA policies significantly affects diversity in the legal profession. Although the general higher education population is 40% diverse and 19% disabled,[56] minority lawyers of color nationwide are only 23% of the legal profession, and 2.4% are those with disabilities as of 2023.[57] Unsurprisingly, Pennsylvania's diversity in the legal profession is not significantly different from what the ABA has created nationally, due to the implementation of the same underlying discriminatory policies. Along with lawyers, the lack of a diverse bench was also noted by an Interbranch Commission in 2014, which identified an underrepresentation of minority judges in the state, with none serving on the Pennsylvania Supreme Court or Commonwealth Court, and only one serving on the Superior Court.[58] Otherwise, the commission

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[55] J.P. Pressley, *Online Learning Can Help Minimize Racism and Ableism In and Out of the Classroom*, EdTech: Focus on Higher Education (May 25, 2022), https://edtechmagazine.com/higher/article/2022/05/online-learning-can-help-minimize-racism-and-ableism-and-out-classroom.

[56] *See* Jane Nam, *Diversity in Higher Education: Facts and Statistics*, BestColleges (Apr. 29, 2024), https://www.bestcolleges.com/research/diversity-in-higher-education-facts-statistics/ (citing the National Center for Education Statistics); *See* Lyss Welding, *Students With Disabilities in Higher Education: Facts and Statistics*, BestColleges (Mar. 29, 2023), https://www.bestcolleges.com/research/students-with-disabilities-higher-education-statistics/ (citing the National Center for Education Statistics).

[57] A.B.A, *Demographics 2024, supra* n. 40.

[58] *Creating A Diverse Bench in Pennsylvania,* Pa. Interbranch Comm'n, 7 (Jan. 2014), https://pa-interbranchcommission.com/wp-content/uploads/2021/10/Creating-A-Diverse-Bench-Final.pdf.

determined that only 9% of the Courts of Common Pleas were made up of minorities.[59]

The current rules that limit access to the Pennsylvania bar include Rule 203 Admission by Bar Examination, which requires an applicant to have 1) completed an accredited college or university undergraduate degree, or equivalent education, 2) graduated from an ABA-accredited law school (per Rule 102), 3) possessed appropriate conduct showing good character or general non-scholastic qualification standards, 4) completed the UBE with a minimum score of 270, and 5) completed the MPRE with a minimum score of 75.[60] Rule 206 Admission by Bar Examination Score Transfer requires nearly the same requirements as Rule 203, except that the bar examination must meet the minimum UBE score and be transferred within 30 months of taking the exam.[61]

Alternatively, under Rule 203, an attorney who did not attend an ABA-accredited law school must gain five additional years of experience practicing law or teaching at an ABA law school in a reciprocal jurisdiction before the rules allow that attorney to have the option of retaking the UBE in Pennsylvania before bar admission.[62]

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[59] *Id.*
[60] 204 Pa. Code 71 r. 203.
[61] 204 Pa. Code 71 r. 206.
[62] 204 Pa. Code 71 r. 203(a)(2)(ii).

Although this Court previously amended admission rules in 1976 to permit individuals to sit for the bar examination if they "shall have acquired a legal education which in the opinion of the State Board is the equivalent of the education received in an ABA approved school," policies permitting the waiver were unclear.[63] In the fall of 1976, Edward M. Murphy, a Western State University School of Law graduate and California attorney, applied for a waiver to take the bar exam in Pennsylvania because the ABA did not accredit Western State at that time.[64] The U.S. District Court held in *Murphy* that Pennsylvania's waiver option, available to bar applicants not attending ABA-accredited law schools,

> must be operated in accordance with the due process guarantees of the Fourteenth Amendment. Waivers may not be granted or denied arbitrarily or capriciously, or without definable reasons or standards. In the absence of any guiding principles which may be pointed to as forming the basis of a waiver decision there is no indication that due process has been adhered to. There is no intimation of the rational basis on which the Court's discretion has been exercised. Due process will not allow the exercise of unfettered discretion, or the use of improper criteria. While we have no reason to believe nor do we mean to infer that this or any other waiver decision was the result of an improper exercise of discretion in violation of the Fourteenth Amendment, we simply do not know, and neither do plaintiff or other graduates of non-ABA accredited law schools who wish to be admitted to the bar in Pennsylvania. No reasons have been given, and no standards and guidelines for issuance or denial of waivers have been established. Applicants for admission to the bar by the way of the waiver procedure

[63] *Murphy v. Egan*, 498 F. Supp. 240, 241 n. 1 (E.D. Pa.), *cause dismissed and remanded sub nom*. Appeal of Eagen, 639 F.2d 772 (3d Cir. 1980), and *cause* dismissed and remanded sub nom. *Edward M. Murphy, II v. Michael J. Eagen*, 639 F.2d 774 (3d Cir. 1980).
[64] *Id.* at 241.

> are entitled to know the criteria which must be met in order to be granted a waiver.[65]

After the federal court required the Pennsylvania Board of Law Examiners' ("PBLE") waiver requirement to follow due process guarantees by providing standards and guidelines, the entire waiver process was eliminated. This limited immediate bar examination, transfer of UBE scores, and reciprocity admission options to only ABA law school graduates.[66] The PBLE currently advises potential applicants desiring to gain bar admission that the board is "without authority to waive its rules or the requirements of its rules. Accordingly, there is no process to petition the Board for waiver of its rules or rule requirements."[67]

F. PG Law's JD programs provide equivalent legal qualifications and help address the access to justice gap.

PG Law, formerly Concord Law School, was established in 1998 in Los Angeles, California, as the nation's first fully online law school.[68] The school was founded to provide more access to law programs that would accommodate both the time and budget constraints of working adults.[69] PG Law's mission is to provide a rigorous legal education that supports effective client advocacy.[70] One of PG

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[65] *Id.* at 244.
[66] 204 Pa. Code 71 r. 102.
[67] *Waiver Statement*, Pa. Bd. of Law Exam'r (Apr. 11, 2025), https://www.pabarexam.org/bar_admission_rules/waiverstatement.htm.
[68] *About Purdue Global Law School*, PG L., https://www.purduegloballawschool.edu/about (last visited June 11, 2025).
[69] *Id.*
[70] *Id.*

Law's goals is to enable greater access to justice for the general population by helping rural communities with their legal needs.[71] PG Law supports access to justice by being innovative in its teaching methods and educating students more effectively, while offering tuition rates that are less than half the average of ABA-accredited schools.[72] This permits graduates to be zealous advocates for their clients while not being forced to relocate outside of rural areas or join larger firms that focus on high-profile, commercial, or government clients to pay off their debt.

PG Law Dean Martin Pritikin, magna cum laude graduate of Harvard Law School and ABA-accredited law school Teacher of the Year award winner (twice), has led faculty efforts since 2016 to improve the quality of the JD program.[73] Under Dean Pritikin's persistent and determined leadership, faculty have been encouraged to incorporate creative teaching strategies and techniques to innovate more engaging and dynamic learning environments that cater to students' diverse learning styles.

In 2003, PG Law's first graduates sat for the California Bar Exam and achieved a pass rate of 60%, surpassing the state's overall first-time pass rate for

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[71] *Id.*
[72] *A Quality Legal Education Doesn't Need to Cost a Fortune*, PG L., https://www.purdueglobalawschool.edu/tuition (last visited June 10, 2025).
[73] *Martin Pritikin, JD*, PG L., https://www.purdueglobal.edu/about/leadership-board/martin-pritikin/ (last visited June 11, 2025).

all examinees.[74] PG Law's latest bar examination performance highlights include a first-time pass rate of 62% on the February 2023 California Bar Exam, which far exceeded the first-time average of all ABA law schools at 43%.[75] During the February 2025 exam, for which Petitioner was an examinee, PG Law graduates had an overall first-time pass rate of 88% among UBE takers, which exceeded the overall first-time pass rate in all states where graduates took the exam, including Utah, Indiana, and Connecticut.[76]

PG Law's 2025 results matched the first-time pass rate in California at 62% and exceeded the ABA's first-time pass rate nationally, with 68% of PG Law graduates passing the bar on their first attempt compared to the 62% ABA-dominated average.[77] For the February 2025 UBE, Pennsylvania examinees from mostly ABA law schools had a first-time pass rate of 57%, which PG Law surpassed at 88% in similar UBE jurisdictions.[78] Nationwide bar exam scores have declined over the past five years as the substantial majority of examinees, ABA graduates, have seen a decrease in average scores on the exams, with the February

[74] *The History of Purdue Global Law School*, PG L., https://www.purdueglobalawschool.edu/about/history (last visited June 11, 2025).
[75] *Id*.
[76] *Spring 2025 Alumni Newsletter*, PG L., May 2025, at 2.
[77] *Id.*
[78] *Bar Exam Results by Jurisdiction,* NCBE (June 11, 2025), https://www.ncbex.org/statistics-research/bar-exam-results-jurisdiction.

2025 Multistate Bar Exam ("MBE") score being the lowest since the NCBE's inception in 1972.[79]

While the quality and format of online law school programs vary greatly, PG Law's bar passage rates have gradually improved.[80] Even as online JD programs have strengthened, comparing ABA and non-ABA-accredited schools is challenging because of the nationwide prejudice against graduates stemming from state bars that still incorporate ABA discrimination requirements. This non-merit-based discrimination forces non-ABA-accredited law schools to suffer from an "adverse selection" bias among applicants to law schools in general who do not want to risk a stigma from a lesser-known online law program with potentially significant bar admission and work restrictions.[81] Therefore, it is likely that the performance of online law schools and their associated bar-passage-rate statistics are negatively impacted because of the ABA's manufactured discrimination and artificial limitations against them, which permeate into law school applications, internships, fellowships, clerkships, and post-graduate employment.

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[79] *See* Legal.io, *National Bar Exam Scores Fall, supra* n. 6; *See also NCBE Announces National Mean for February 2025 MBE*, NCBE (Mar. 27, 2025), https://www.ncbex.org/news-resources/ncbe-announces-national-mean-february-2025-mbe/.
[80] *Mythbusters: What do we really know about online law schools?*, A.B.A. J. (Jan. 15, 2025), https://www.abajournal.com/web/article/mythbusters-what-do-we-really-know-about-online-law-schools.
[81] *Id.*

G. Multiple states' supreme courts and boards of law examiners determined that PG Law's JD program satisfies requirements for bar admission qualifications.

ABA's Legal Program Standards 301-316 create learning objectives and outcomes for its accredited law schools.[82] These open requirements support curricula flexibility while necessitating that programs prepare students for the bar exam by developing an understanding of professional responsibility, legal writing, and client advocacy.[83] PG Law's JD curriculum is substantially equivalent to ABA requirements and matches the core curriculum at some of the highest ABA-ranked schools in the country, like Stanford,[84] Harvard,[85] and Yale.[86] In addition to the similar mapping of JD degree requirements, PG Law is accredited by the Higher Learning Commission, an institutionally recognized accreditation agency by the U.S. Department of Education, and the Committee of Bar Examiners of the State Bar of California.[87] Finally, PG Law's leadership and faculty have extensive experience advocating for clients, defending civil rights, publishing legal works,

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[82] A.B.A., *Chapter 3, supra* n. 53, at 19-20.
[83] *Id.*
[84] *Degree Requirements*, Stanford Univ. (Nov. 4, 2022), https://law.stanford.edu/wp-content/uploads/2022/11/Overview-of-JD-Requirements-for-Class-of-2025.pdf.
[85] *J.D. Degree Requirements Quick Reference Guide*, Harv. L. Sch., https://hls.harvard.edu/academics/curriculum/registration-information/j-d-degree-requirements-quick-reference-guide/ (last visited June 11, 2025).
[86] *Academic Requirements and Options*, Yale L. Sch., https://bulletin.yale.edu/bulletins/law/academic-requirements-and-options#course-selection (last visited June 11, 2025).
[87] *Accreditation*, PG L., https://www.purduegloballawschool.edu/about/accreditation (last visited June 11, 2025).

and teaching the law, along with the great majority being graduates and award-winning professors of ABA-accredited law schools.[88]

PG Law has also been recognized by five states' boards of law examiners or supreme courts for having a legal education program that is substantially equivalent to ABA standards or one of sufficient quality to satisfy bar admission requirements. Along with California, the Supreme Court of Indiana provided non-ABA-accredited law schools with a pathway to licensure in 2024 by approving PG Law graduates to take the bar examination based on individual waivers through amendments to Indiana's Administrative and Discipline Rule 13.[89] In 2024, Connecticut's Bar Examining Committee similarly approved PG Law graduates to qualify for their bar examination without waiver after evaluating the school and determining that it met their educational qualifications for admission.[90]

In 2024, the Supreme Court of Utah ruled in *Labrum* that PG Law's curriculum, topic coverage, and program length were equivalent to ABA

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[88] *Purdue Global Law School Faculty: Distinguished and Responsive*, PG L., https://www.purduegloballawschool.edu/about/faculty (last visited June 11, 2025).
[89] *Dean's Letter - Summer 2024,* PG L. (July 31, 2024), https://www.purduegloballawschool.edu/blog/deans-column/summer-2024; *See Order Amending Admission and Discipline Rules*, No. 24S-MS-1 (Ind. Feb. 15, 2024), https://www.in.gov/courts/files/order-rules-2024-0701-admin.pdf.
[90] Julianne Hill, *Connecticut Allows Fully Online Law School Grads of Purdue Global to Take Bar Exam*, A.B.A. J. (Oct. 8, 2024), https://www.abajournal.com/web/article/connecticut-allows-purdue-global-fully-online-law-school-grads-to-sit-the-bar-exam; *See Frequently Asked Questions (FAQs)*, Conn. Bar Examining Comm., https://ctbaradmissions.jud.ct.gov/faq (last visited June 11, 2025).

standards.[91] Although the court mentioned concerns about lower first-time bar pass rates in 2017, it noted that PG Law's ultimate bar pass rates at the time were slightly lower than the ABA requirement by approximately five percent.[92] The court reviewed attorney discipline and disbarment statistics, which it documented were similar to the ethical standards of other graduates of ABA-accredited law schools.[93] The court held that based on clear and convincing evidence, PG Law provided a JD education of "sufficient quality" for a graduate's admission to the bar upon passing the bar examination and other requirements.[94]

In April 2025, the Wyoming Supreme Court held in *Anderson* that although existing rules required ABA-accredited law school attendance, a graduate of PG Law had sufficient educational training and experience to "fully qualify him to sit for the UBE and potentially practice law in Wyoming upon passage of the exam."[95] Similarly, in May of 2025, the Texas Supreme Court held in *Locke* that PG Law's JD program provided the graduate with a legal education where "good cause [was] shown for waiving the requirements of Rules 3 and 13."[96] The court waived these rules that limited bar applicants to only attending accredited schools at the time of

[91] *Labrum v. Utah State Bar*, 2024 UT 24, ¶ 29, 554 P.3d 943, 952, No. 20230173 (Utah 2024).
[92] *Id.* at ¶ 31.
[93] *Id.*
[94] *Id.* at ¶ 32.
[95] *In the Matter of Scott Warren Anderson's Request for Waiver under Rule 105(a) to sit on Wyoming Bar Exam*, (Wyo. Apr. 8, 2025), at 1.
[96] *Waiver of Requirements in Rules 3 and 13 of the Rules Governing Admission to the Bar for Nelson Locke*, No. 25-9024 (Tex. May 6, 2025), at 1.

a student's graduation and prevented primarily online law school graduates from applying.[97] This coincides with the Supreme Courts of Texas and Florida recently issuing orders soliciting public comments on their bar admission education requirements regarding the merits of the ABA monopoly and "whether to reduce or end the Rules' reliance on the ABA; and alternatives the Court should consider."[98]

H. Petitioner's education and experience qualify him to utilize Rule 206 to transfer his scores and be admitted to the Pennsylvania Bar, except for the single ABA-accreditation requirement.

Petitioner Keely lives on the outskirts of the small town of Chambersburg, PA, with his wife and five children, all aged 16 or younger. Petitioner works for a government consulting firm and has over fifteen years of experience leading information systems security architecture, policy, and implementation efforts within private companies and the federal government. Petitioner works full-time, helps his lovely wife raise and care for their children (including one in diapers and one born during law school), attends to his local elderly family members, and volunteers in the county at church and other community events. These work, family, financial, and community obligations would have made it extremely

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[97] *Id.*

[98] *Order Inviting Comments on the Law School Accreditation Component of Texas's Bar Admission Requirements*, Misc. Docket No. 25-9018 (Tex. Apr. 4, 2025), https://www.txcourts.gov/media/1460232/259018.pdf; *In re Workgroup on the Role of the American Bar Association in Bar Admission Requirements*, No. AOSC25-15 (Fla. Mar. 12, 2025), https://supremecourt.flcourts.gov/content/download/2448909/file/AOSC25-15.pdf.

difficult and impractical for Petitioner to commute over an hour multiple times per week or move his family to attend an ABA-accredited law school.

During Petitioner's attendance at PG Law, he earned twenty-four (24) Center for Computer-Assisted Legal Instruction (CALI) highest course grade awards and graduated at the top of his 2024 class.[99] Petitioner took the March 2024 MPRE, finishing in the top 7.1% of all examinees from all law schools.[100] After graduating from PG Law, Petitioner sat for the UBE in Connecticut, where he satisfied all character and fitness requirements to practice law and passed the bar likely in the top two percent of UBE examinees from all law schools nationwide.[101]

Petitioner's experience includes managing information security programs in the private and public sectors for over 15 years, advising senior leaders, and implementing security efforts that have helped secure clients' highly sensitive information and assets.[102] During that time, Petitioner spent thousands of hours training and volunteering for over 10 years as a Firefighter II Paramedic for the Germantown Volunteer Fire Department, serving the community while working full-time to support his family.[103]

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[99] Empowerment L., *About, supra* n. 3.
[100] *The Multistate Professional Responsibility Examination (MPRE) 2024 Statistics*, NCBE, https://thebarexaminer.ncbex.org/2024-statistics/the-multistate-professional-responsibility-examination-mpre/ (last visited June 11, 2025).
[101] *See* NCBE, *The Uniform Bar, supra* n. 6.
[102] Empowerment L., *About, supra* n. 3.
[103] *Id.*

Petitioner desires to become a member of the Pennsylvania bar to work as a practicing attorney for clients within the state and to support access to justice initiatives through pro bono efforts to help the community with severely needed legal assistance. As Connecticut is a reciprocal UBE jurisdiction, Petitioner should be able to transfer his passing UBE and MPRE scores to satisfy Pennsylvania Bar Admission's Rule 206 Admission by Bar Examination Score Transfer requirements. However, as Rule 206(b)(2) requires compliance with paragraph (a) of Rule 203, requiring ABA-accredited law school graduation (as in Rule 102),[104] this remains the only reason why the PBLE would automatically reject Petitioner for admission to the Pennsylvania bar.

Even seeking admission through reciprocity in another jurisdiction would not be possible after five years of practice in another jurisdiction because Rule 204 Admission by Reciprocity still requires graduation from an ABA-accredited law school.[105] Although Rule 203 offers one option, it has a significant five-year delay, requiring Petitioner to practice law out of state in another jurisdiction for five years to retake the same bar exam he already passed according to Pennsylvania standards.[106] As there are "no refunds or transfers of applications and/or fees,"[107]

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[104] 204 Pa. Code 71 r. 206.
[105] 204 Pa. Code 71 r. 204.
[106] 204 Pa. Code 71 r. 203(a)(2)(ii).
[107] *There are no refunds or transfers of applications and/or fees*, Pa. Bd. of Law Exam'r, https://www.pabarexam.org/non_bar_exam_admission/otherfees.htm (last visited June 10, 2025).

and an obvious lack of immediate options available, it would be illogical for Petitioner to waste an expensive application fee to the Board only to have the application rejected.

Under the current rules, Petitioner would not even be eligible to enter the bar through the path of a foreign bar graduate, as outlined in Rule 205 Admission of Foreign Attorneys, since PG Law is located within the United States.[108] In a note in *Murphy*, the U.S. District Court for the Eastern District of Pennsylvania wrote that Pennsylvania Bar Admission Rules seemed unfair to graduates and attorneys of other states who attended American law schools unaccredited by the ABA, as the judicial system provided more preferential treatment toward foreign institutions than American ones, which seemed "odd" while potentially lacking wisdom and constitutional support.[109]

V. ARGUMENT

A. This Court has legal authority to provide extraordinary relief to Petitioner utilizing general powers and King's Bench jurisdiction.

This Court is vested with general powers and continuing King's Bench authority to exercise "every judicial power that the people of the Commonwealth can bestow under the Constitution of the United States."[110] This Court's holdings have rejected narrow interpretations of the authority and "described the King's

[108] 204 Pa. Code 71 r. 205.
[109] *Murphy*, 498 F.Supp. at 243 n. 2.
[110] *Bruno*, 627 Pa. at 557 (quoting *Stander v. Kelley*, 433 Pa. 406, 250 A.2d 474, 487 (1969)).

Bench power in the broadest of terms."[111] 210 Pa. Code Rule 3309(a) recognizes this authority that is appropriate for executing powers from both extraordinary jurisdiction referencing 42 Pa.C.S. § 726 for matters of immediate public importance, and those reserved to this Court in "Section 1 of the Schedule to the Judiciary Article," which includes review of the constitutionality of judicial administration matters of bar admission as in PA. CONST. art. V, § 1, 2, & 10(c).

This Court has jurisdiction particularly suited to this case pursuant to its constitutional authority as the highest court of the Commonwealth's unified judicial system and supreme judicial power under 42 Pa.C.S. § 502 to govern judicial administration.[112] This authority includes the "power to prescribe general rules governing practice, procedure, … admission to the bar and to practice law," and to evaluate the constitutionality of those judicial administration rules.[113] As in *Williams*, even when a single inmate's constitutional rights regarding the ability to receive the governor's reprieve for his criminal sentence are at issue, constitutional challenges to bar admissions rules presented by Petitioner in this case are appropriate for adjudication and relief.[114] Accordingly, this Court must use its King's Bench judicial administrative powers to decide this application and order the requested relief from Pennsylvania Bar Admission Rules that violate the rights

[111] *Id.* at 579.
[112] *Kartorie*, 486 Pa. at 505, 406 A.2d at 749.
[113] PA. CONST. art. V, § 10(c).
[114] *See Commonwealth. v. Williams*, 634 Pa. 290, 303, 129 A.3d 1199, 1207 (2015).

of Petitioner and similarly situated Pennsylvania residents based on the associated constitutional challenges raised.[115]

Although Petitioner made written contact and received initial email introductions from this Court's Chief Counsel of the Rules Committee and the PBLE Executive Director when seeking support regarding similar issues raised in this petition on April 4, 2025, no other response has been received. Furthermore, Petitioner does not seek this Court's jurisdictional authority according to 42 Pa.C.S.A. § 725(4) regarding PBLE appeals because of the board's direct and explicit inability to approve the following requests for relief against the existing Pennsylvania Bar Admissions Rules that are unconstitutional violations of Petitioner's rights, warning that it is unable to waive its rules or requirements.[116] As this Court indicated in *Stilp*, although there is a lack of a developed judicial system or administrative record on this matter, purely legal and significant constitutional challenges remain, which are properly set before this Court and require review.[117]

Finally, this Court has jurisdiction under its King's Bench authority to decide this application and order the requested relief to cause right and justice to be done in this matter involving "an issue of immediate public importance" according

[115] *See Friends of Danny DeVito v. Wolf*, 658 Pa. 165, 186, 227 A.3d 872, 884–85 (2020).
[116] Pa. Bd. of Law Exam'r, *Waiver Statement, supra* n. 68.
[117] *Stilp v. Commonwealth*, 588 Pa. 539, 550–51, 905 A.2d 918, 924 (2006) (citing 42 Pa.C.S.A. § 726).

to 42 Pa.C.S.A. § 726. Annually, the severe access to justice issue has resulted in hundreds of thousands of Pennsylvanians lacking support for their legal matters. Experts have estimated that over 72% of legal issues from those who cannot afford support go unresolved, which has an immediate impact on low-income families across the Commonwealth. Although the Pennsylvania legislature and judicial branches have conducted multiple studies on the matter and attempted various remedies, the problem continues to plague Pennsylvania residents lacking severely needed legal assistance. As the majority of their legal issues concern life or family-altering problems, timely resolution of these access to justice issues is essential to alleviating this matter and preventing the problem from continuing to deteriorate, providing another solid basis for King's Bench jurisdiction.[118]

This Court's exercise of its King's Bench power is appropriate in this matter because it concerns Pennsylvania residents and the unconstitutional denial of their fundamental right to work, along with the associated benefits to the public of removing the discriminatory ABA monopoly on bar admissions to provide additional opportunities for legal support that would help improve the access to justice crisis in Pennsylvania.

The significant power of King's Bench authority comes with great responsibility to ensure that this Court's "principal obligations are to

[118] *See Friends of Danny DeVito,* 658 Pa. at 185–86 (citing *Williams*, 129 A3d at 1205-6).

conscientiously guard the fairness and probity of the judicial process and the dignity, integrity, and authority of the judicial system, all for the protection of the citizens of this Commonwealth."[119] Petitioner's constitutional challenges to the racially discriminatory bar admission rules in the Pennsylvania justice system that improperly limit the fundamental right to work plainly fall within this Court's King's Bench authority. The urgency to respond to this constitutional issue and support options to help resolve Pennsylvania's access to justice crisis cannot be understated.

B. Generally applicable limitations on the fundamental right to work outside of historical factors for determining an individual's qualifications are unconstitutional.

In determining whether a right is fundamental, the Supreme Court held that when a right is not explicitly mentioned in the Constitution or Bill of Rights the question is whether the "right is 'deeply rooted in [our] history and tradition' and whether it is essential to this Nation's 'scheme of ordered liberty.'"[120] Although the right to work or choose one's occupation is not explicitly mentioned in the Constitution, the long history, from before America's founding to the present,

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[119] *Williams*, 634 Pa. at 302-3 (citing *Bruno, 101 A.3d at* 675).

[120] *Dobbs v. Jackson Women's Health Org.*, 597 U.S. 215, 237, 142 S.Ct. 2228, 2246 (2022) (citing *Timbs v. Indiana*, 139 S.Ct. 682, 686 (2019); *McDonald v. City of Chicago, Ill.*, 561 U.S. 742, 767, 130 S.Ct. 3020 (2010); *Washington v. Glucksberg*, 521 U.S. 702, 721, 117 S.Ct. 2258 (1997)).

demonstrates its inextricable link to the liberty and property interests protected by the Fifth and Fourteenth Amendments.[121]

Our founders "established and declared one of the inalienable rights of freemen, which our ancestors brought with them to this country. The right to follow any one of the common occupations of life is an inalienable right."[122] Without this fundamental right to work, our citizens would be unable to function economically, maintain property, or be free, as previously discussed in Federalist 10, the Declaration of Independence, *Dent,* and other Supreme Court decisions that have bound this right to the foundations of our Constitution and liberty.

The Supreme Court has already held that denying one's admission to a state bar is justiciable and requires satisfying procedural due process before the state is permitted to deprive an individual of that right. "A claim of a present right to admission to the bar of a state and a denial of that right is a controversy."[123] Furthermore, the court held in *Willner,* citing *Schware,* that

> the requirements of procedural due process must be met before a state can exclude a person from practicing law. A state cannot exclude a person from the practice of law or from any other occupation in a manner or for reasons that contravene the Due Process or Equal Protection Clause of the Fourteenth Amendment.[124]

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[121] U.S. CONST. amends. V, XIV.
[122] *Butchers' Union Slaughter-House*, 111 U.S. at 765–66, 4 S.Ct. at 659.
[123] *Willner v. Comm. on Character & Fitness*, 373 U.S. 96, 102, 83 S.Ct. 1175, 1179–80 (1963) (citing *In re Summers*, 325 U.S. 561, 568, 65 S.Ct. 1307, 1312 (1945)); *See* U.S. CONST. amends. V, XIV.
[124] *Id.* (citing *Schware v. Bd. of Bar Exam'r*, 353 U.S. 232, 238—239, 77 S.Ct. 752, 756 (1957)).

As the Supreme Court held in firearms licensing cases, which adjudicated licensing impediments to Second Amendment rights in *Heller*, *McDonald,* and *Bruen,* the Fourteenth Amendment applies selected fundamental rights that are controlling upon the states, including those in the Fifth Amendment's Due Process Clause.[125] As Madison indicated, the explicitly mentioned constitutional protections of liberty and property would not exist without the historically implied fundamental right to work. The Supreme Court reiterated in *Lowe* that every citizen has a fundamental right to follow any lawful profession, but that there was no deprivation of right where the individual did not comply with a state's conditions imposed for the protection of society to practice that profession.[126] As a result, the court determined that state restrictions on professions must be rationally related to advancing a legitimate state interest.[127] A specific requirement for the constitutionality of professional licensing rules is that they must "have a rational connection with the applicant's fitness or capacity to practice the profession."[128] A state must not bar an applicant from admission when there is no basis for

[125] *See N.Y. State Rifle & Pistol Ass'n, Inc. v. Bruen*, 597 U.S. 1, 142 S.Ct. 2111, 2125 (2022) (citing *District of Columbia v. Heller*, 554 U.S. 570 (2008); *McDonald*, 561 U.S. 742 (2010)).
[126] *Lowe v. SEC*, 472, U.S. 181, 227 (1985) (White, J., Burger, C.J., Rehnquist, J, concurring citing *Dent,* 129 U.S. 114).
[127] *Massachusetts Bd. of Ret. v. Murgia*, 96 S.Ct. 2562, 2566 (1976).
[128] *Id.* (citing *Schware*, 353 U.S. at 353).

determining a failure to meet these standards or when the action is invidiously discriminatory.[129]

However, as the court held in *Bruen*, the incorporated right to work represents a "central component" of those Bill of Rights' protections, which was similarly "the very product of an interest balancing by the people … It is this balance—struck by the traditions of the American people—that demands our unqualified deference."[130] As in *Heller*, the fundamental right to carry a handgun for self-defense in the home was not explicitly enumerated in the Second Amendment. Yet, the court understood from the history of the Second Amendment that the right was implied as a "core protection,"[131] exactly like the fundamental right to work was within enumerated liberty and property rights of the Fifth and Fourteenth Amendments.[132] Furthermore, the court reiterated in *Bruen* (citing *Konigsberg v. State Bar of Cal.*) that only if the government's regulation is "consistent with this Nation's historical tradition may a court conclude that the individual's conduct falls outside" the constitutional protections granted.[133] While a regulation burdening a fundamental right need not be a "historical twin," under

[129] *Schware*, 353 U.S. at 238–39, 77 S.Ct. at 756 (citing *Yick Wo v. Hopkins*, 118 U.S. 356, 6 S.Ct. 1064 (1886)).
[130] *Id*. at 2131.
[131] *Heller*, 554 U.S. at 634, 128 S.Ct. at 2821.
[132] U.S. CONST. amends. V, XIV.
[133] *Bruen*, 142 S.Ct. at 2126 (citing *Konigsberg v. State Bar of Cal.*, 366 U.S. 36, 50, n. 10, 81 S.Ct. 997 (1961)).

the "historical analogue" precedent in *Rahimi*, burdens must be "consistent with the principles that underpin our regulatory tradition."[134]

It follows that rational basis cannot apply to illegitimate and nontraditional restrictions as indicated by Supreme Court precedents in similar First, Second, Fifth, and Sixth Amendment cases.[135] Therefore, state licensing burdens on fundamental rights, even with an important state interest, that occur outside the narrow category of limitations within the "Nation's historical tradition" of protecting the public from specific harms of the unlicensed practice of professions are unconstitutional.[136]

The Supreme Court in *Douglas* described the boundaries and basis for determining professional licensing qualifications. In light of the centuries-long history of state licensure of professions discussed previously, the court held that a legislature may, if consistent with the state constitution, confer upon an administrative board the power to determine whether an applicant possesses the qualifications that the legislature declared reasonably necessary to practice.[137] However, the court determined that if a legislature acts outside of the Fourteenth Amendment to "[c]onfer arbitrary discretion to withhold a license, or to impose

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[134] *United States v. Rahimi*, 144 S.Ct. 1889, 1905, 219 L.Ed.2d 351, 371 (2024) (citing *Bruen*, 597 U.S. at 26-31).
[135] *Heller*, 554 U.S. at 628 n.27, 128 S.Ct. at 2818.
[136] *See, Id*. at 2125-6.
[137] *Douglas v. Noble*, 261 U.S. 165, 167, 43 S.Ct. 303, 304 (1923).

conditions which have no relation to the applicant's qualifications to practice," the law would violate due process.[138]

Most importantly, the court has already determined the specific inquiry and delegable activities concerning professional licensing that would satisfy the due process required. The court indicated that legislatures are permitted to determine a clear and "general standard of fitness and the character and scope of the examination." Once that standard was set, the administrative licensing boards of government could examine an applicant's background for compliance as

> [w]hether the applicant possesses the qualifications inherent in that standard is a question of fact … The decision of that fact involves ordinarily the determination of two subsidiary questions of fact: The first, what the knowledge and skill is which fits one to practice the profession; the second, whether the applicant possesses that knowledge and skill. The latter finding is necessarily an individual one. The former is ordinarily one of general application.[139]

The Supreme Court held that standards of general application to enter a profession within the statute's "reputable" college education requirement were limited to encompassing specific factors of the "subjects of which one must have knowledge, … the extent of knowledge in each subject, the degree of skill requisite, and the procedure to be followed in conducting the examination – these are matters appropriately committed to an administrative [licensing] board."[140]

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[138] *Id.* at 168.
[139] *Id.* at 169.
[140] *Id.* at 169-170 (citing *Mut. Film Corp. v. Indus. Comm'n of Ohio*, 236 U.S. 230, 245-6, 35 S.Ct. 387, 392 (1915), *overruled in part by Joseph Burstyn, Inc. v. Wilson*, 343 U.S. 495 (1952)).

Therefore, as the "practice of law is not a matter of grace, but of right for one who is qualified by his learning and his moral character,"[141] states burdening this right to work are strictly limited to creating generally applicable licensing requirements encompassing legitimate historical qualification factors, as in the Second Amendment firearms licensing cases, and must assess individual compliance with those appropriate qualifications before withholding professional licenses.

C. ABA-accredited law school attendance is not a legitimate historical qualification, but only one of many methods to achieve professional legal qualifications.

Historical fundamental right to work limitations were specific to an individual's qualifications and an examination, as all fundamental rights originating from the Constitution are "enshrined with the scope they were understood to have when the people adopted them."[142] Throughout the relevant history of codifying this right, licensing limitations were not based on attending a particular school or schools accredited by a single entity.

During colonial times, training in the law and most other occupations began with apprenticeships or clerkships, highlighting the importance of practical

[141] *Baird v. State Bar of Ariz.*, 401 U.S. 1, 8 (1971) (citing *see generally Schware*, 353 U.S. at 232; *Ex parte Garland*, 4 Wall. 333 (1867)); *See Supreme Court of N.H. v. Piper*, 470 U.S. 274, 281 (1985) ("Like the occupations considered in our earlier cases, the practice of law is important to the national economy ... the opportunity to practice law should be considered a fundamental right.").
[142] *See Bruen*, 142 S.Ct. at 2136 (citing *Heller*, 554 U.S. at 634-5, 128 S.Ct. at 2783).

experience in understanding the law and how the legal system functioned.[143] Admission to the bar in most states depended on a few years to nearly a decade's length of experience, depending on an individual's prior education and abilities.[144] Bar admission experience requirements decreased throughout the late 1700s until the 1850s, supporting a system of lawyers that mostly entered the bar through experiential learning ("EL") or self-study.[145] Even with these changes, licensing restrictions on the right to work were historically well understood and documented before America's independence, when our founders ratified the Bill of Rights in 1791, and during the ratification of the Fourteenth Amendment in the 1860s. Until the late 1920s, no states required law school graduation, and most states did not require an undergraduate degree for admission to the bar.[146]

When the founders understood liberty and property rights, including the fundamental right to work, they were familiar with restrictions on the right to work but based them on the experience and knowledge of the individual. Education outside of experience was not required from colonial times until the mid-1900s, when racial and discriminatory influences clouded the process. In the Supreme Court's *Douglas* decision, the understanding of professional licensing limitations

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[143] Kiefer, *The History of the U.S. Bar Exam, supra*, n. 18 (citing Susan Katcher, *Legal Training in the United States: A Brief History*, 24 Wis. L. Rev. 335, 339 (2006), https://wilj.law.wisc.edu/wp-content/uploads/sites/1270/2012/02/katcher.pdf).
[144] Katcher, *supra* n. 144, at 340.
[145] *Id.* at 351.
[146] Shepherd, *supra* n. 26, at 112.

remained learning method agnostic and focused on an individual's skill, knowledge, and ability.[147] This traditional concept of licensing qualifications, as expressly held in *Douglas* (1923), coincided with the ascendance of the AALS and ABA in the early part of the century and the approval of the first group of schools to receive ABA-accreditation in the same year.[148]

Both modern classroom-based and EL methods enhance individuals' professional and scientific knowledge, skills, and abilities. A variety of EL methods have improved learning experiences compared to classroom learning,[149] and a meta-analysis of 90 studies on EL documented that students achieved substantial gains from EL methodologies compared to their modern academic courses.[150] Many EL methods, like apprenticeships and internships, are also reported to provide better outcomes in preparation for professional schooling and within professional programs in postgraduate education.[151]

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[147] *Douglas*, 261 U.S. at 169.
[148] *ABA-Approved Law Schools by Year Approved*, A.B.A., https://www.americanbar.org/groups/legal_education/resources/aba_approved_law_schools/by_year_approved/ (last visited June 12, 2025).
[149] Michelle Arnot, Jinhee Kim, Michelle French, Sonia Y. Lin, Charlotte Pashley, & Rebecca R. Laposa, *Students Perceive Similar Gains in Collaboration, Communication and Professional Skills in Two Distinct Experiential Learning Courses*, 13 PHARMACOLOGY RES. & PERSP. 1, 7 (2025) (citing ALICE Y. KOLB & DAVID A. KOLB, *Experiential Learning Theory: A Dynamic, Holistic Approach to Management Learning, Education and Development*, in THE SAGE HANDBOOK OF MANAGEMENT LEARNING, EDUCATION AND DEVELOPMENT, 42–68 (SAGE 2009)).
[150] *Id.* at 7.
[151] *Id.* at 8.

These methods have been documented over time to such an extent that even ABA-accreditation guidelines include traditional EL methods in Standard 302, which emphasizes understanding professional responsibilities and skills, as well as Standard 304, which incorporates attendance in experiential courses, clinics, or field placements.[152] Therefore, as both methods of learning are very effective, completely excluding bar applicants who have gained knowledge through EL or education from other accredited institutions outside of the ABA monopoly must have been motivated by an alternative and unrelated purpose, like racial, gender, or minority discrimination.

Adding traditional methods of instruction to achieve knowledge, skills, and abilities through EL, self-study, or non-ABA-accredited law schools does not tarnish modern learning methods. However, the ABA-accreditation monopoly must not be permitted to deprive all who acquire equivalent qualifications with alternative methods of their right to practice a profession. Although Petitioner would not argue that the older system of apprenticeship, clerkship, or reading the law on one's own was better than our current system for educating lawyers en masse, methods of EL and self-study have been proven effective learning methods for millennia and should not be discounted because of the ongoing discriminatory ABA monopoly in legal education.

[152] A.B.A., *Chapter 3, supra* n. 53, at 22-23.

Current Pennsylvania Bar Admission Rules 203, 204, and 206, along with the associated definitions in Rule 102, strictly require applicants to have graduated from an ABA-accredited law program before admission to the bar is possible.[153] The single option for non-ABA law graduate residents to gain access to the bar is unequal and unreasonable as it is likely to force qualified applicants to move out of state, practice law for five of seven years, and then return only to retake the bar examination to gain admission under Rule 203(a)(2)(ii).[154] Pennsylvania Supreme Court Justice Manderino's dissenting opinion in *Ferriman*, with Justices Larsen and Flaherty joining, resounded these ABA monopoly concerns when they stated, "[t]he inequities of such an unconstitutional rule continue not only to deprive citizens the opportunity to practice in Pennsylvania but also deprive Pennsylvania consumers of competent legal services."[155]

Instead of assessing an individual's qualifications based on knowledge, skills, and abilities, current rules discourage and irrationally prevent or significantly delay qualified applicants from applying and becoming members of the bar. While the ABA-accreditation method is one option to obtain those qualifications, the ABA pathway does not constitute a legitimate licensing qualification as understood during historically relevant times when liberty and

[153] 204 Pa. Code 71 r. 206.
[154] 204 Pa. Code 71 r. 203(a)(2)(ii).
[155] *Appeal of Ferriman*, 487 Pa. 45, 47, 408 A.2d 844, 844–45 (1979) (Manderino, J., dissenting opinion joined by Larsen and Flaherty, JJ.).

property due process rights were codified. The educational monopoly created by this rule lacks support from any "relevantly similar" burdens in history,[156] which, on the contrary, permitted diverse providers and methods of experiential training and self-learning. Therefore, the associated Pennsylvania Bar Admission Rules, which restrict access to licensing based on the method of acquiring qualifications and require graduation from an ABA-accredited law school, are unconstitutional.

D. Current rules invidiously discriminate against minorities and impede their entry into the legal profession by preserving the ABA-accreditation monopoly in bar admission qualifications.

A fundamental right is one "deeply rooted in this Nation's history and tradition" that is "implicit in the concept of ordered liberty."[157] When a right is fundamental, the Equal Protection Clause prevents government interference unless the action is "narrowly tailored to serve a compelling state interest."[158] As in *Washington v. Davis*, race-based discrimination is analyzed under the same standard for facially neutral laws that serve other valid government purposes.[159] These laws are invalid under the Equal Protection Clause of the Fifth and Fourteenth Amendments and are subject to strict scrutiny if it can be shown that

[156] *See Rahimi*, 144 S.Ct at 1901, 219 L.Ed.2d at 367 (citing *Bruen*, 597 U.S. at 29).
[157] *Glucksberg,* 117 S.Ct. at 2268.
[158] *Id;* U.S. CONST. amends. V, XIV.
[159] *Washington v. Davis*, 426 U.S. 229, 242-245 (1976).

they have a disproportionate impact and if their purpose or motivation was racially discriminatory.[160]

The rule's discriminatory impact on the Black population and other minorities has been well understood from the founding of the ABA and AALS, which included three of the seven Pennsylvania law schools and three more before the civil rights movement in the 1960s.[161] Pennsylvania's legal educators were long-time members of the ABA during its most overtly discriminatory founding, when it explicitly excluded Black members from 1878 until 1943. When overt discrimination could no longer be tolerated, the ABA switched to covert tactics, which resulted in additional requirements that further impeded Black advancement. The organization's advocacy requiring attendance in more expensive and discriminatory ABA-accredited law schools, combined with additional LSAT testing, made it more difficult for Black students to enter law school and ultimately the profession.

At the AALS meeting in 1969, the Black Caucus of Law Teachers strongly opposed the LSAT and classified it as "a device to exclude blacks from law schools, and encourage[d] the use of relevant alternative admission criteria."[162] The impact of these discriminatory regulations resulted in most ABA-accredited law

[160] *Id.*
[161] *Member Schools*. AALS, https://www.aals.org/member-schools/ (last visited May 22, 2025).
[162] AALS, *Proceedings of the Annual Meeting, supra* n. 35, at 147.

schools not admitting a single black student until the early 1970s.[163] In 1970, Pennsylvania was one of four states outside of the South to have over 1 million Blacks, yet the state only had approximately 140 Black lawyers, which was considered "scandalous," according to a Philadelphia Bar Association committee.[164]

Even now, the comparison of Black lawyers to the national population remains staggeringly disproportionate. The ABA's recent demographic survey indicated that "the number of Black lawyers is unchanged over the past decade … Black lawyers were 5% of the profession in 2014 and 5% in 2024. That's far less than the percentage of Black people in the U.S. population (13.7%)."[165] This coincides with California being the state with the greatest acceptance of non-ABA-accredited law schools, having multiple metropolitan areas with the highest diversity of law partners in the country, compared to Pennsylvania cities, like Pittsburgh, with the lowest minority percentages at only 2%. The fruits of over a hundred years of ABA's continued discrimination against Blacks have resulted in a 64% disparity in the number of Black lawyers nationwide, demonstrating the discriminatory impact ABA's policies and the current Pennsylvania Bar Admissions Rules have on Petitioner and other Pennsylvania residents.

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[163] Kidder, *The Struggle for Access, supra* n. 29, at 5.
[164] *Id.* at 8.
[165] A.B.A., *Profile of the Legal Profession 2024, supra* n. 40.

ABA policies have specifically limited Petitioner from attending their schools due to their limited locations, expensive tuition, and exclusion of fully online teaching methods. Petitioner has only two ABA law schools near him that are over 30 miles away, which would have required uprooting his family to move to those locations or frequently commuting a significant distance. These changes would have removed him farther from his family's support and made it harder to work full-time and help his wife raise their five children.

As the average ABA law school costs nearly three times that of PG Law, this would have placed a significant financial burden on his family, which would have been untenable in both the short and long term. The ABA's limitations on the percentage of remote learning methods prevented Petitioner from attending their law schools in 2021. PG Law offered a fully online program that Petitioner could reasonably attend without making drastic changes that would harm his current work or the support he provided to his community and local family members. Therefore, by limiting bar admission to only ABA-accredited law school graduates, this Court has currently discriminated against Petitioner and similar minorities who gained comparable qualifications yet lacked the ability or desire to uproot their entire families and accept a significant amount of debt to attend ABA-accredited law schools.

As the rule requiring ABA law school attendance is facially neutral, a discriminatory purpose or motivation can be shown to qualify for a violation of Equal Protection rights. The Supreme Court held in *Village of Arlington Heights* that although a justified purpose could be found in laws with multiple motivations, when any discriminatory motivation exists in a law's intent, the law cannot stand,[166] stating,

> *Davis* does not require a plaintiff to prove that the challenged action rested solely on racially discriminatory purposes. Rarely can it be said that a legislature or administrative body operating under a broad mandate made a decision motivated solely by a single concern, or even that a particular purpose was the 'dominant' or 'primary' one … But racial discrimination is not just another competing consideration. When there is a proof that a discriminatory purpose has been a motivating factor in the decision, this judicial deference is no longer justified.[167]

Discriminatory intent is often inferred from the circumstances surrounding historical events rather than being based on subjective intent. "Frequently the most probative evidence of intent will be objective evidence of what actually happened, rather than evidence describing the subjective state of mind of the actor. For, normally, the actor is presumed to have intended the natural consequences of his deeds."[168] The Supreme Court's decision in *Village of Arlington Heights* clarified that racially discriminatory intent can be shown by factors like 1) disproportionate

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[166] *Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 265–66, 97 S.Ct. 555, 563 (1977).
[167] *Id.*
[168] *Davis,* 426 U.S. at 253.

impact, 2) historical background of the state action, 3) specific prior events, 4) departure from normal or reasonable procedures, or 5) contemporary statements of decisionmakers.[169]

While the disproportionate impact on the Black community, preceding events, and historical background of the state's action have already been discussed, it is important to note the Court's departure from normal or reasonable actions to achieve the purported results. Before the ABA monopoly, this Court had already utilized qualification assessments through education, experience, the written bar examination, and a character and fitness review to ensure lawyer competency and prevent lawyers from defrauding the public. If the Court desired to increase the competency of attorneys by demanding greater qualifications, it could have used the most direct option by increasing the actual knowledge, skills, or abilities required in the bar admission rules, or making the examination more difficult for all bar applicants. Instead, the Court chose the most expensive and difficult path for Blacks, women, and other minorities to enter the profession by forcing the monopoly of ABA-accredited law school education as a requirement before the bar examination, the test of an individual's qualifications, was even possible.

This Court's requirement for graduation from an ABA law school before bar admission prevents alternative law school routes or other learning methods. These

[169] *Vill. of Arlington Heights*, 429 U.S. at 266-268 (citing *Davis*, 426 U.S. at 242).

actions have caused racial discrimination and disproportionate impacts on Petitioner and other minorities. Although the rule appears neutral on its face, the monopoly it establishes in education is not. Neither is the history of the ABA's discriminatory tactics (both overt and covert) that led to this Court's adoption of the rule, nor the departure from the implementation of normal or reasonable measures. These targeted deviations from historical practices of professional licensing limitations demonstrate a discriminatory purpose and motive behind the ABA-accreditation rule and cannot serve a compelling state interest.

Along with violating the Equal Protection Clause due to fundamental right violations and racially discriminatory tactics, the current rules also violate Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, et seq. ("Title VII"), and the PHRA, 43 P.S. § 951 et seq. As in *Ricci*, Title VII prohibits state action, including licensing boards, that discriminates based on race, color, religion, sex, or national origin in both intentional and disproportionately adverse (disparate impact) situations.[170] PHRA prohibits similar discrimination and includes in its definition of "employer" the Commonwealth of Pennsylvania and any political subdivision or board, like the PBLE.[171]

[170] *See Ricci v. Destefano*, 129 S.Ct. 2658, 174 L.Ed.2d 490, 557 U.S. 557, 577 (2009).
[171] 43 P.S. Labor § 954.

This Court's bar admission rules must not employ discriminatory practices in licensing that unnecessarily limit access to the profession. "What Congress has commanded is that any tests used must measure the person for the job and not the person in the abstract."[172] The bar licensing requirement of graduating from an ABA-accredited law school is unrelated to the specific measure of an individual's qualifications. In remedying this discrimination tactic, this Court should remove unnecessary professional barriers by requiring PBLE to examine individuals, not just their class or ability to afford and attend a high-priced ABA law school, when substantially equivalent alternatives exist. Therefore, this Court must eliminate the racially discriminatory and not reasonably necessary ABA-accreditation mandate as a violation of the Equal Protection Clause of the Fifth and Fourteenth Amendments, and for the same reasons, Title VII and PHRA 43 P.S. § 951 et seq.

In addition to the violations above, the rule requiring an ABA monopoly that blocks all other methods of individual qualification lacks rational basis justification within the Equal Protection Clause. In the Supreme Court's decision in *Moreno*, a statute classified households based on related or unrelated persons but proposed to reduce fraud with the assumption that unrelated households would not be as fraudulent.[173] The law included multiple provisions to prevent fraud and even

[172] *Griggs v. Duke Power Co.*, 401 U.S. 424, 436, 91 S.Ct. 849, 856 (1971); *See* Civil Rights Act of 1964, 42 U.S.C.A. §§ 2000e et seq., 2000e–2(a)(2), (h).
[173] *U.S. Dep't of Agric. v. Moreno*, 413 U.S. 528, 535, 93 S.Ct. 2821, 2826 (1973).

criminalized similar actions in some instances.[174] The law also harmed people who could not alter their living arrangements, but it likely would permit those who could work around those constraints to continue reaping its benefits.[175]

As in *Moreno*, this Court's rule barring those who cannot accommodate or afford ABA law schools was purported to reduce fraud and raise the status of the profession. However, like in *Moreno*, the Court's past rules already included provisions to prevent fraud and ensure competency, including experience, education, background checks, and the bar examination. Most importantly, the new rules also impeded those racial and other minorities who would have the most difficulty in being admitted to law school and attending from accessing the bar. These new restrictions would not significantly impact the White upper-class, who would be less likely to need to work during law school to support their families or pay for separate tutoring for the LSAT, additional living expenses, or higher tuition costs.

Ultimately, this Court's adoption of the ABA monopoly in accrediting law schools does not align with the historical traditions of professional licensing limitations, nor can it be demonstrated that it is rationally related to preventing fraud or enhancing competency in the profession. Throughout the 1900s, private

[174] *Id.* at 537.
[175] *Id.* at 537-538.

law schools that accepted Black students but ultimately failed to survive these discriminatory tactics employed learning methods similar to ABA standards. Today, PG Law has already been recognized by at least five state boards of law examiners or supreme courts as having a similarly qualifying or equivalent legal program for JD applicants. Some state supreme courts also investigated the ethical behavior of ABA and non-ABA graduate attorneys, finding no significant difference in their professional conduct or discipline. Therefore, there is no rational reason why forcing an expensive and discriminatory ABA-accreditation monopoly on bar applicants would further the purposes of professional licensing. While legitimate justifications behind licensing were to reduce fraud and improve competency, the ABA's teaching method was not significantly different from alternative methods used by more diverse law schools and experiential or self-study programs, making the imposition of an ABA monopoly invidiously discriminatory.

E. Although this Court may preapprove methods of satisfying professional licensing qualifications, due process requires the evaluation of legitimate individual qualifications before depriving applicants of their ability to practice law.

Independent from the previous arguments, maintaining the ABA's accreditation monopoly as a barrier to entry for the Pennsylvania bar violates the Due Process Clause of the Fifth Amendment as applied through the Fourteenth Amendment because it infringes on procedural due process, as established in

Eldridge. As in *Willner*, procedural due process requirements must be met before a state deprives a person of the ability to practice law, which is a liberty and property interest.[176] Under the *Eldridge* holding, the three factors a court must assess are: 1) the private interest affected by the state's action, 2) the risk of an erroneous deprivation through the procedures used and the likely additional value of alternative safeguards, and 3) the state's interest or burdens of alternative safeguards.[177]

Petitioner maintains a significant private interest in his right to liberty and property, including the fundamental right of being able to work in his chosen profession as an attorney. Pennsylvania also maintains procedures and a mandatory bar admission requirement for practicing law within the state. Petitioner has invested considerable time over the past four and a half years apart from his family and friends to earn his JD from PG Law. Furthermore, he has spent tens of thousands of dollars, taken out significant loans, and taken time off from work for exams, major assignments, and to study for the bar examination in Connecticut to become an attorney only to continue to experience unconstitutional discrimination in his home state where he went to high school, attended college, and is currently domiciled.

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[176] *See Willner*, 373 U.S. at 102.; *Appeal of Icardi*, 436 Pa. 364, 368–69, 260 A.2d 782, 784 (1970).
[177] *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976) (citing *Goldberg v. Kelly*, 397 U.S. 254, 263-271 (1970)).

The risk of erroneous deprivation in the current state action stems from the PBLE's lack of proper consideration of alternative learning programs outside of ABA-accredited law schools that satisfy the education qualification requirement. Although this Court has approved equivalency options for an undergraduate degree from an accredited college in Rule 203(a)(1),[178] the current rules prevent admission to the bar in every aspect that Petitioner could utilize to gain access to the bar for a general license to practice law. Petitioner has significantly exceeded this Court's requirements for UBE and MPRE passing scores by likely qualifying in the 98th percentile of all examinees from all law schools for the UBE and earning a score in the 93rd percentile for the MPRE. While his performance on these examinations would otherwise qualify him to transfer his scores for admission to the bar under Rule 206, the current rules block him from immediate admission only because he did not attend an ABA-accredited law school.

The current rules risk erroneous deprivation because, as described earlier, the rule violates the history and traditions of professional licensing limitations by creating a monopoly in obtaining legal education, rather than establishing legitimate qualifications concerning the knowledge, skills, and abilities that an individual must possess. Even if historical principles are not violated, applicants, like Petitioner, are completely barred from qualifying for immediate admission

[178] 204 Pa. Code 71 r. 203.

despite having obtained substantially similar knowledge, skills, and abilities through alternative means of education outside of an ABA-accredited school.

Petitioner graduated with highest honors from PG Law, which employs faculty and deans who, in the substantial majority, have graduated from ABA-accredited law schools. Several states' supreme courts or boards of law examiners have determined that PG Law maintains a substantial equivalency or sufficient quality in its education methods and legal pedagogy compared to ABA standards regarding scope, duration, ethical behavior, and bar passage rates. Furthermore, as the ABA openly refuses to accredit fully online institutions, its refusal to evaluate PG Law and similar law schools prevents potential applicants from applying and perpetuates unfair discrimination against these schools and their graduates. Pennsylvania is not only at risk of erroneous deprivation, this Court has already effectively and erroneously denied admission to Petitioner and other qualified applicants through the current rules that create a monopoly in legal education, favoring the ABA and excluding all other learning providers.

While it may have been more difficult to evaluate the quality of an individual's education earlier, in modern times, as in *Douglas*, evaluating individual learning methods is a task well-suited for an administrative board, such as the PBLE. Alternative education methods to acquire the same knowledge, skills, and abilities could include similar education programs, EL, self-study, or other

alternatives like Artificial Intelligence ("AI")-assisted learning. The PBLE could develop guidelines and procedures for submitting evidence to demonstrate a program's sufficient quality, meeting the educational requirements for admission to the bar. Alternative education methods might also have different requirements for proof depending on the method of learning and supervision. If an individual chooses to attend these programs, they could be required to provide supporting documentation and evidence to convince the board that the learning method's pedagogy is satisfactory. The risk of admitting unqualified attorneys would also be unlikely through the opening of alternative learning methods, as an applicant's legal competence and ability would still be tested through the standard bar examination, and their understanding of professional responsibility and ethics would be assessed through the MPRE.

The burden on the PBLE would be low as the board could utilize existing third-party evaluations or develop guidelines for applicants to follow based on alternative learning methods. Non-ABA-accredited JD programs are likely the easiest to evaluate, as many, like PG Law, have already been evaluated by third-party accrediting agencies, including state bars or accreditors of post-secondary institutions. Furthermore, the PBLE already evaluates the equivalency of an undergraduate degree, which may include multiple majors or specialties. Evaluating standard legal programs for quality would likely be similar, with

considerable publicly available information quickly accessible regarding the program's scope, duration, faculty, bar performance, and third-party accreditation status.

Although similar law school programs might be easier to evaluate, this Court should not discount experiential or self-study methods that could also provide an equivalent legal education for bar applicants. Unlike the reasoning this Court gave in *Kartorie* about lacking resources for individual assessments,[179] the PBLE could recreate basic standards and guidelines for evaluating the quality of these alternative programs, as it did over the years and in the 1920s when the Pennsylvania bar approved admission qualifications based on one's formal education and EL through registered and preceptored clerkships, or a combination of both.[180] The PBLE could also require additional documentation and resources from an applicant choosing this method, as it might involve conducting more frequent evaluations through internal or third-party assessments, while still utilizing existing tests to measure individual competence and ethical understanding.

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[179] *Kartorie*, 486 Pa. at 504, 406 A.2d at 748 (deflecting from the rights of the applicant and constitutionality of the requirement to "the resources of this Court and its Board of Law Examiners are neither sufficient nor suited to the task of 'accrediting any particular law school'").

[180] Walter C. Douglas, Jr., *Pennsylvania's New Requirements for Bar Admission*, 14 A.B.A. J. 669, 672-3 (1928).

While standards and guidelines could be established for experiential or self-study methods, this Court should also consider removing educational qualifications from bar admission requirements. The PBLE claims that it raised eligibility standards in 1971 because it was necessary to maintain competent attorneys, considering other states had increased their requirements in the previous decade.[181] On the surface, this argument appears constitutional and suggests a rational relation to the legitimate state interest in maintaining high standards to ensure competent attorneys were practicing law. However, the bar already had eligibility requirements that required good moral character and a written bar examination that tested the applicant's competence to practice law.[182] The PBLE expressly maintains that the "modern bar examination is designed to ensure that the standards accurately reflect the level of minimum competency necessary to practice law."[183]

The PBLE and this Court adopted the NCBE's UBE, a well-researched and peer-reviewed exam that utilizes a scientific approach to test legal knowledge and the ability to practice law based on questions and practical examinations.[184] As the PBLE has a proven scientific method for assessing one's knowledge of the law and

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[181] Pa. Bd. of Law Exam'r, *Modern Bar Examination, supra* n. 38.
[182] *Id.*
[183] *Id.*
[184] *Bar Exam Fundamentals for Legal Educators*, NCBE, 4-8 (July 15, 2024), https://thebarexaminer.ncbex.org/wp-content/uploads/NCBE_Bar_Exam_Fundamentals_071524_Online.pdf.

ability to practice through the bar examination, it should not be reasonably necessary to evaluate the quality of one's education separately or that one graduated from an ABA-accredited law school. Furthermore, it is unclear what this Court is looking for beyond the generally accepted legal knowledge and abilities that one should possess after graduating from an ABA-accredited school, which are not included in non-ABA law school programs or alternative learning methods. This Court should not permit any other irrational, religious, or non-scientific requirement that limits access to the profession, like discriminatorily mandating the ABA-accreditation monopoly on education before bar admission.

The PBLE already utilizes a separate ethics examination that tests the requirements for professional responsibility for lawyers through the MPRE. As in other states, courts have held that states have a legitimate interest in regulating bar admissions through the bar examination, which tests for competency.[185] As the bar examination accurately tests for lawyer competency, this additional ABA requirement must logically have been implemented for some different or secondary purpose outside the nation's historical standards and those set in *Douglas*, which were viewed as necessary to protect society and rationally connected with the fitness or capacity to practice law.[186] Therefore, unless the ABA-accredited

[185] *Scariano v. Justs. of Supreme Ct. of State of Ind.*, 38 F.3d 920, 925 (7th Cir. 1994).
[186] *Schware*, 77 S.Ct. at 756.

programs are associated with some indoctrination of a kind of beliefs, religious understandings, or alternative legal principles that cannot be tested by the current scientific bar examination conducted by the NCBE, this requirement mandating a monopoly of ABA-accreditation cannot be rationally related to the professional licensing requirements for entry to the state's bar.

Additional support for this argument is found in the logical issues raised from circular ABA standards and Pennsylvania's bar examination requirements. The past managing director of the ABA's Accreditation and Legal Education unit indicated, "[h]ow well a school's graduates perform on the bar exam is a very important accreditation tool to assess the school's program of legal education."[187] This Court's bar admission rules permit only ABA-accredited graduates to take the bar examination to measure competency, while the ABA requires in Standard 316 that law schools maintain a minimum of at least a 75% bar passage rate within two years of graduation to evaluate a law school's competency and justify ABA accreditation. These circular requirements demonstrate that the logical reasoning behind the mandatory requirement of ABA-accreditation is not independent from the bar examination process, which already determines an individual's legal competency. While critics might argue that it is not completely self-contradictory,

[187] *Statement from Barry Currier*, A.B.A. (May 17, 2019), https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/may-17-2019-barry-currier-statement-on-standard-316.pdf.

the logical flaws should raise serious questions about the fairness of the bar admission system and related conflict of interest issues as supreme courts and boards of bar examiners across the country continue to lower their bar cut scores.[188]

Coupled with the discriminatory history of the ABA and AALS, these structural flaws in the current Pennsylvania bar admissions process are not merely accidental or intended to benefit the public. The current bar admission rules must be changed to remove irrational, discriminatory, and unnecessary parts that have nothing to do with regulating the legal profession to protect the public from incompetent or unethical lawyers and only serve to create barriers to entry because of racial and other forms of discrimination against minorities and the lower-income class. The state's lack of a legitimate individual qualifications assessment creates unwarranted and unnecessary violations of Petitioner's procedural due process rights, which cannot serve any interests of the state.[189]

Petitioner's private interest in being able to pursue his fundamental right to work in his chosen profession of law in Pennsylvania is substantial, especially when accounting for the time and money spent learning an equivalent curriculum at PG Law. The risk of erroneous deprivation of the private right to practice law

[188] Julianne Hill, *Lowered bar pass scores better bar pass rates in 4 of 5 states*, A.B.A. J. (May 7, 2024), https://www.abajournal.com/web/article/lowered-bar-pass-scores-better-bar-pass-rates-in-4-of-5-states/.
[189] *See Goss v. Lopez*, 419 U.S. 565, 579, 95 S.Ct. 729, 739 (1975).

for those with similarly qualifying knowledge, skills, and abilities is already occurring, which is actually injuring Petitioner and similarly situated Pennsylvania residents. The cost and burden of assessing already independently evaluated non-ABA law school programs are extremely low compared to the private interest lost, and even more unnecessary and irrational given the existing scientifically proven tests for competency and ethics that this Court has already adopted.

In addition to these arguments, as in *Murphy*, there is no reason why this Court offers more preferential treatment to foreign law school graduates than it does to American students who study the law in a non-ABA-accredited manner, but finish their programs with the same knowledge, skills, and abilities. Pennsylvania residents' fundamental due process rights require this Court to change the Bar Admission Rules to either force the PBLE to conduct individualized assessments of legitimate qualifications for equivalent or sufficient qualities of education, or in the alternative, remove the education requirement altogether, while still utilizing the generally applied examinations and background investigations already in place to provide non-discriminatory and historically supported professional licensing requirements.

VI. CONCLUSION

This Court must unchain the attorney licensing system in Pennsylvania by removing barriers to bar admissions for minorities and those who choose to attend

independent schools or gain their knowledge through alternative learning methods. Removing the ABA-accreditation monopoly would enable fairer access to the Pennsylvania bar for minorities and provide an opportunity for thousands of existing attorneys to join the bar without unnecessary impediments, thereby increasing access to justice for state residents who desperately need legal assistance.

> This right is a large ingredient in the civil liberty of the citizen. To deny it to all but a few favored individuals by investing the latter with a monopoly is to invade one of the fundamental privileges of the citizen, contrary not only to common right, but, as I think, to the express words of the Constitution.[190]

This Court must correct the bar admission ABA-monopoly that it created in the past against the history and tradition of professional licensing, which has invidiously discriminated against racial minorities, repeatedly prevented qualified applicants from bar admission on technicalities instead of legitimate individual qualifications, and ultimately limited Pennsylvanians' access to justice.

For the foregoing reasons, this Court should exercise its general powers and King's Bench jurisdiction to address this issue of immediate public importance that threatens the integrity of the Commonwealth's judicial system and the constitutional rights of Petitioner and citizens statewide. These extraordinary

[190] *Butchers' Union Slaughter-House*, 111 U.S. at 762 (Bradley, J. with Harlan and Woods, JJ., concurring).

circumstances demand this Court's swift intervention to help restore public confidence in the judiciary and eliminate discrimination in bar admissions. Petitioner urges this Court to provide the following relief:

1) If this Court views the education requirement still necessary:
    a. Direct the PBLE to recreate and utilize an individual education qualifications assessment process that is teaching method and accreditation organization agnostic, which addresses the legal knowledge, skills, and abilities required for bar applicants based on *Douglas* and historical professional licensing qualifications for approval by this Court;
    b. Eliminate the ABA-accreditation monopoly specifically referenced or listed in Rules 102, 203, 206, or utilized by any other bar admission rule, by permitting JD or equivalent graduates of ABA and other third-party state, regional, or national fully or provisionally accredited institutions that satisfy the individual education qualifications mentioned above to take the Pennsylvania bar exam or transfer their UBE score immediately after graduation or examination;
    c. Eliminate the ABA-accreditation monopoly from Rule 204 reciprocity requirements permitting non-ABA law school applicants who satisfy the individual education qualifications above and have five years of

experience practicing or teaching law to qualify for reciprocity without having to retake the bar examination from reciprocal states as in Rule 203(a)(2)(ii); and

d. Direct the PBLE to publish an annual list of approved legal education programs, including ABA-accredited and other third-party accredited JD programs, including PG Law, that provide satisfactory educational qualifications for public awareness to support encouragement, openness, and competition in legal education through alternative teaching methods.

2) If this Court determines the education requirement unnecessary because of existing professional license testing and assessments already utilized, the Court should direct the PBLE to eliminate the education requirement from the Pennsylvania Bar Admissions Rules.

3) Direct the PBLE to provide this Court with a list of individuals with known denials of their Pennsylvania bar application based on the lack of ABA law school attendance, like in *Kartorie* and *Ferriman,* and direct the PBLE to provide this Court with a comprehensive plan on remedying and recognizing those past wrongs to those individuals or their surviving relatives.

4) Direct the PBLE to grant Petitioner admission to the Pennsylvania bar.

Respectfully submitted,

Dated: June 27, 2025

/s/ Alexander D. Keely

Alexander D. Keely
[redacted]
E-mail: akeely@empowermentlaw.com

CERTIFICATE OF WORD COUNT

I hereby certify that the above brief contains 13,688 words, as determined by the word-count feature of Microsoft Word, the word-processing program used to prepare this petition, and excluding the portions of the petition exempted by Pa.R.A.P. 2135(b).

Respectfully submitted,

Dated: June 27, 2025

/s/ Alexander D. Keely

Alexander D. Keely
[redacted]
E-mail: akeely@empowermentlaw.com