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MEMORANDUM

DATE: October 23, 2014

TO: Law School Deans

FROM: Erica Moeser, President 
National Conference of Bar Examiners

RE: Two Matters

RECEIVED
OCT 28 2014

I have been intending to write to you as a reminder that Civil Procedure will appear as the seventh content area on the Multistate Bar Examination beginning in February 2015, joining Contracts, Constitutional Law, Criminal Law and Procedure, Evidence, Real Property, and Torts. Please share this information with your faculty and students.

To assist your students in preparing for the bar examination, we have posted sample multiple-choice Civil Procedure questions on the NCBE website. Unlike our other sample questions that are drawn from a pool of retired questions, these are new and untested. Eventually we will be releasing actual questions that have been administered and then retired for study purposes.

In the wake of the release of MBE scores from the July 2014 test administration, I also want to take this opportunity to let you know that the drop in scores that we saw this past July has been a matter of concern to us, as no doubt it has been to many of you. While we always take quality control of MBE scoring very seriously, we redoubled our efforts to satisfy ourselves that no error occurred in scoring the examination or in equating the test with its predecessors. The results are correct.

Beyond checking and rechecking our equating, we have looked at other indicators to challenge the results. All point to the fact that the group that sat in July 2014 was less able than the group that sat in July 2013. In July 2013 we marked the highest number of MBE test-takers. This year the number of MBE test-takers fell by five percent. This was not unanticipated: figures from the American Bar Association indicate that first-year law school enrollment fell 7% between Fall 2010 (the 2013 graduating class) and Fall 2011 (the 2014 class). We have been expecting a dip in

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bar examination numbers as declining law school applications and enrollments worked their way to the law school graduation stage, but the question of the performance of the 2014 graduates was of course an unknown.

Some have questioned whether adoption of the Uniform Bar Examination has been a factor in slumping pass rates. It has not. In most UBE jurisdictions (there are currently 14), the same test components are being used and the components are being combined as they were before the UBE was adopted. As noted above, it is the MBE, with scores equated across time, that reveals a decline in performance of the cohort that took July 2014 bar examinations.

In closing, I can assure you that had we discovered an error in MBE scoring, we would have acknowledged it and corrected it.

Best wishes.

em/dk