



UNIVERSITY OF MARYLAND
SCHOOL OF LAW

December 22, 1997

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The Honorable Pascal F. Calogero
Chief Justice
Supreme Court of Louisiana
301 Loyola Avenue
New Orleans, LA 70112

Re: Tulane Environmental Law Clinic

Dear Chief Justice Calogero:

We teach environmental law at law schools throughout the country. We have followed with growing alarm the campaign against the Tulane University Environmental Law Clinic spearheaded by the Business Council, the Chamber, and the Louisiana Association of Business and Industry. Their request that your Court restrict the clinic's representation of citizen groups in environmental controversies threatens principles that are important not only to legal education, but also to our profession's commitment to providing representation to underrepresented interests.

Clinical practice has become a vital and well-accepted aspect of contemporary legal education. Students who participate in clinical programs gain valuable practical experience while providing representation to individuals and groups who otherwise would find it difficult to hire legal counsel. These programs operate in the best interests and traditions of both legal education and the legal profession.

Criticism of the Tulane Clinic has focused largely on its representation of the primarily poor, minority residents of St. James Parish, who oppose the siting of a large new chemical plant proposed by the Shintech Corporation. From our vantage point, the complaints against the Tulane Clinic are rooted in the erroneous notion that it is unfair or unethical to provide pro bono assistance to individuals and groups who wish to participate in the permitting process for the plant because such representation will create an atmosphere that is hostile to business interests throughout the state.

Our environmental laws are founded on the principle that citizens have a right to participate in the regulatory process in order to ensure that the laws are fully implemented, fairly applied, and vigorously enforced. Virtually every major environmental law adopted by the Congress contains a citizen suit provision allowing individuals and groups affected by violations of the laws to seek legal redress in court. Federal and state laws mandate that citizens have a right of access to information, a right to be heard before regulatory bodies make decisions that may affect them, and a right to judicial review of those agency decisions. Citizen participation in the regulatory process is important to preserving public trust in government and public confidence in the fairness and propriety of regulatory decisions.

Law school clinics like the Tulane Environmental Clinic help ensure that citizens participate in the regulatory process in a more informed and effective manner. They operate in the best traditions of the legal profession, as well-expressed by the Official Comment to Model Rule of Professional Conduct 1.2:

Legal representation should not be denied to people who are unable to afford legal services, or whose cause is controversial or the subject of popular disapproval. By the same token, representing a client does not constitute approval of the client's views or activities.

Thus, the fact that some interests may disagree with the positions, or second-guess the strategy, of the Tulane Clinic, does not warrant the establishment of special rules to restrict its activities. Indeed, the proposals made by critics of the Tulane Clinic are designed primarily to restrict the representation afforded to citizens who oppose projects supported by the Clinic's critics, rather than to upgrade ethical standards.

Sadly, environmental disputes occasionally become so polarized that participants forget some of the universal premises of our legal system and our profession. We urge you to reject the complaints that have been made against the Tulane Environmental Law Clinic and to reaffirm the important role that clinical practice plays in legal education and our profession's commitment to pro bono public service.

Sincerely,

Note: It was not practical to collect signatures from the individuals who signed on to this letter. However, all listed professors authorized that their names appear as indicated. Institutional affiliations are included for identification purposes only. If you have any questions about the letter, please contact:

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