

Serial: 112789

IN THE SUPREME COURT OF MISSISSIPPI

No. 89-R-99012-SCT

FILED

APR 15 2004

OFFICE OF THE CLERK
SUPREME COURT
COURT OF APPEALS

***RE: RULES GOVERNING ADMISSION
TO THE MISSISSIPPI BAR***


ORDER

This matter is before the Court on request of the Board of Bar Admissions for specified amendments to the Rules Governing Admission to the Mississippi Bar. Having considered the request, the Court finds that the adoption of such amendments as set forth hereinafter will be beneficial to the proper regulation of admissions to practice law in the state and that they should be adopted.

IT IS THEREFORE ORDERED that Rule I, Section 3; Rule II, Section 1; Rule II, Section 3(J.); Rule III, Section 4; Rule IV, Section 2; Rule IV, Section 3; Rule IV, Section 4; Rule IV, Section 6; Rule IV, Section 9; Rule VI, Section 2; Rule VI, Section 3 and Rule IX, Section 4C are amended, with a new Rule VI, Section three added and subsequent sections of Rule VI renumbered correspondingly, as set forth in Exhibits "A" through "F" hereto.

IT IS FURTHER ORDERED that the Clerk of this Court shall spread this order upon the minutes of the Court and shall forward a true certified copy hereof to West Publishing Company for publication in the next edition of the *Mississippi Rules of Court* and in the *Southern Reporter, Second Series, (Mississippi Edition)*.

SO ORDERED, this the 12th day of April, 2004.



WILLIAM L. WALLER, JR., PRESIDING JUSTICE

DIAZ, J., NOT PARTICIPATING.

EXHIBIT "A" TO ORDER

RULES GOVERNING ADMISSION TO THE MISSISSIPPI BAR

RULE I. DEFINITIONS AND INTERPRETATIONS.

Section 1. Definitions.

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Section 2. Interpretation.

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Section 3. Headquarters.

The office of the Board shall be located at 656 North State Street, First Floor, Jackson, Mississippi 39202 ~~Second Floor, Gartin Justice Building, Jackson, Mississippi 39201.~~
The mailing address of the Board is P. O. Box 1449, Jackson, Mississippi 39215-1449.

[Effective November 1, 1991; amended effective April 15, 2004.]

EXHIBIT "B" TO ORDER

RULES GOVERNING ADMISSION TO THE MISSISSIPPI BAR

RULE II. BOARD OF BAR ADMISSIONS.

Section 1. Appointment -- Term of Office.

By virtue of Section 73-3-2, Mississippi Code of 1972, the Mississippi Legislature created a Board to be known as the "Board of Bar Admissions" which shall be appointed by the Supreme Court of Mississippi. The Board shall consist of nine (9) members, who shall be members in good standing of the Mississippi Bar and shall serve for terms of three (3) years. Three (3) members shall be appointed from each Supreme Court District, one (1) by each Supreme Court justice from his district, with the original appointments to be as follows: Three (3) to be appointed for a term of one (1) year, three (3) to be appointed for a term of two (2) years, and three (3) to be appointed for a term of three (3) years, one (1) from each district to be appointed each year. No member of the Board of Bar Admissions may be a member of the legislature. Board members will serve until replaced. Vacancies during a term shall be filled by the appointing justice or his successor for the remainder of the unexpired term.

[Effective November 1, 1991; amended effective April 15, 2004 to provide that Board members serve until replaced.]

Section 2. Duties.

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Section 3. General Powers.

The Board shall have the power:

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J. To employ a Bar Admissions Administrator and other employees of the Board who shall be paid salaries and/or compensation fixed by the Board. The Bar Admissions Administrator and such other employees shall be supervised by an Executive Director who shall be the Director of the Administrative Office of Courts. The Bar Admissions

Administrator and such other employees, as may be designated by the Board, shall be bonded to insure faithful performance of their duties. The duties of the Bar Admissions Administrator shall be as follows:

(1) Dissemination of information as to the prerequisites which a person must have prior to taking the bar examination.

(2) Receiving and examining applications of persons for registration and admission and maintaining appropriate registers of applicants.

(3) Keeping on file all examination papers (except MBE examination booklets and answer sheets) for a period of (45) days following the publication of the results of the examination, after which he shall destroy all such papers unless a request for review has been filed by a failing applicant within the said (45) day period. In such a case, the examination papers of all applicants will be kept

a. until the entry of a final order of the Board changing every petitioning applicant's failing status or

b. for a period of 6 months following the final order of the Board affirming the failure of any applicant, after which period all examination papers shall be destroyed unless the Board otherwise directs.

(4) Unless otherwise directed by the Board, keeping on file all information and documents pertaining to applicants for a period of five (5) years after the applicant is issued a "Certificate of Eligibility" at which time the Board shall have no obligation to retain the files and may thereafter destroy them. This rule does not apply to, except for examination papers which shall be retained only as provided by Item J(3) above.

(5) Keeping a record of all meetings and proceedings, and keeping all minutes and records of the Board of Bar Admissions.

(6) Receiving application fees and other monies paid to the Board and properly depositing and accounting for the same in accordance with state law.

(7) Preparing an annual budget for approval by the Board and assisting in its presentation to the Mississippi State Legislature.

(8) Presenting to the State Auditor claims for payment of expenses incurred by the Board and otherwise administering, or assisting in the administration of the fiscal affairs of the Board.

(9) Supervising the work of other employees of the Board.

(10) Receiving from and preserving records of previous Boards of Bar Admissions, including lists of former applicants for admission.

(11) Such other duties as the Board may determine.

[Effective November 1, 1991; amended effective April 15, 2004 to designate the Director of the Administrative Office of Courts as Executive Director of the Board of Bar Admissions and to limit requirements concerning keeping and destruction of files.]

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EXHIBIT "C" TO ORDER

RULES GOVERNING ADMISSION TO THE MISSISSIPPI BAR

RULE III. APPLICATION FOR REGISTRATION AS A LAW STUDENT

Section 1. Application Forms.

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Section 2. Registration as a Law Student.

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Section 3. Late Registration as a Law Student.

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Section 4. Additional Investigation Fees.

In addition to the law student registration and examination fees provided for in Rule III, Sections 2(A) and 3 and Rule IV, Sections 2 and 3, any applicant who has previously been admitted to the practice of law in any other jurisdiction shall pay at the time of registration an additional fee in such amount as the National Conference of Bar Examiners may charge in connection with a character investigation. ~~of \$200.00 to be used for a character investigation through the National Conference of Bar Examiners.~~ The Board or the Committee may also require any applicant to pay the additional costs of investigation when circumstances require a character investigation more costly than the usual investigation.

The cost of any record, document, or conduction of an investigation or inquiry concerning an application shall be paid by the applicant. The cost of any transcript or record incurred during the conduction of a hearing shall be paid by the applicant. Upon determining that additional costs of investigation shall be assessed, the Board or the Committee shall notify the applicant thereof, along with the amount of the additional costs for which he is required to pay. Said sums shall be due from applicant immediately upon receipt of notice thereof. If payment of the additional costs is not received by the Board within thirty (30) days of the date of such notice to applicant, the application shall be considered withdrawn, and the applicant shall not be considered for admission. For good cause shown for non-payment, the Board may extend the time within which payment must be received before the application is deemed withdrawn. From the time of the determination that additional costs of investigation should be charged to the applicant until the same are paid, neither the Board nor the Committee shall proceed further with the application.

[Effective November 1, 1991; amended effective April 4, 2004.]

EXHIBIT "D" TO ORDER

RULES GOVERNING ADMISSION TO THE MISSISSIPPI BAR

RULE IV. EXAMINATION APPLICATIONS.

Section 1. Application Forms

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Section 2. Examination Applications for Applicants Who Have Filed Law Student Registrations

Those applicants who have previously registered as law students under Rule III, Section 2(A) and those law students who previously registered late under Rule III, Section 3, must file with the Board an Application for Admission by Examination, designating the examination for which applicant desires to sit. Each Application for Admission by Examination must be accompanied by a fee of \$325.00, which shall be in addition to registration fees due under Rule III, Section 2(A) and 3. (Money order, certified check, or cash only) Application must be filed with the Board on or before October ~~November~~ 1st preceding the February examination for which the applicant wishes to sit or on or before March ~~April~~ 1st preceding the July examination for which applicant wishes to sit.

Any law student who has not filed a law student application under Rule III, Section 2(A) or 3, must file the Application for Admission by Examination under Rule IV, Section 3 below.

[Effective November 1, 1991; amended effective July 1, 1999; amended effective August 24, 2000, for applications for the February 2001 and subsequent examination; amended effective April 15, 2004, for applications for the February 2005 and subsequent examinations.]

Section 3. Examination Applications for Applicants Not Registering as Law Students

Any applicant who has not previously filed an Application for Registration as a Law Student as provided in Rule III, Section 2(A) or 3, must file a completed Application for Admission by Examination with the Board on or before September ~~October~~ 1st preceding the February examination for which he or she wishes to sit or on or before February ~~March~~

1st preceding the July examination for which he or she wishes to sit. A filing fee of \$625.00 must accompany the Application. (Money order, certified check, or cash only) Applicants admitted in other jurisdictions may be required to pay additional fees for character investigations. Such applicants must contact the Board of Bar Admissions Office for the amount of the additional fees required, if any.

[Effective November 1, 1991; amended effective July 1, 1999; amended effective August 24, 2000, for applications for the February 2001 and subsequent examinations; amended effective April 15, 2004, for applications for the February 2005 and subsequent examinations.]

Section 4. Late Applications for General Bar Examination

Any applicant who failed to file a timely Application for Admission by Examination under Section 2 or Section 3 above may file a late Application for Admission by Examination with the Board from September—October 2nd to November December 1st preceding the February examination for which he or she wishes to sit or February March 2nd to April May 1st preceding the July examination for which he or she wishes to sit. A filing fee of \$525.00 must accompany the Application if the applicant has previously registered as a law student as provided in Rule III, Section 2(A) or 3, or by a filing fee of \$825.00 if the applicant has not previously registered as a law student as provided in Article III, Section 2(A) or 3. Applicants admitted in other jurisdictions may be required to pay additional fees for character investigations. Such applicants must contact the Board of Bar Admissions Office for the amount of the additional fees required, if any.

When an Application for Admissions by Examination is filed later than the prescribed deadlines the Board may act, but shall not be required to act, upon such application in time to permit the applicant to take such approaching examination.

However, under no circumstances will an application to sit for the examination be accepted after the prescribed late deadlines in this Section.

[Effective November 1, 1991; amended effective July 1, 1999; amended effective August 24, 2000, for applications for the February 2001 and subsequent examinations; amended effective April 15, 2004, for applications for the February 2005 and subsequent examinations.]

Section 5. Qualifications for Examination Applicants.

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Section 6. Re-examination Deadlines and Fees.

Any applicant who fails the bar examination shall be allowed to take the next scheduled examination without further investigation as to his character and fitness unless additional information requiring investigation comes to the attention of the Board.

The applicant must file an application on a form provided by the Board for re-examination with a fee of \$350.00 (money order, certified check, or cash only) by ~~November~~ December 1st preceding the February examination and by May 1st preceding the July examination.

[Effective November 1, 1991; amended effective July 1, 1999; amended effective August 24, 2000, for applications for the February 2001 and subsequent examinations; amended effective April 15, 2004, for applications for the February 2005 and subsequent examinations.]

Section 7. Re-examination in Excess of Three.

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Section 8. Deferment.

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Section 9. Examination of Disbarred Attorneys

A disbarred attorney seeking reinstatement to the Mississippi Bar pursuant to Rule 12 of the Mississippi Rules of Discipline shall file with the Board of Bar Admissions an application to take the Mississippi Bar Examination on or before January 1st preceding the February examination for which such applicant proposes to sit or on or before June 1st preceding the July not less than thirty (30) days prior to the first day of the examination for which such applicant proposes to sit. The form of such applications shall be prescribed by the Board. The application must be accompanied by an examination fee of \$325.00 (money order, certified check, or cash only) payable to the Board of Bar Admissions. The Mississippi Bar Examination shall be administered and graded for such applicants in the same manner as for applicants for new admission. The results shall be reported to the applicant, to the Clerk of the Mississippi Supreme Court, and to the Board of Bar Commissioners. The same procedures and fees, where applicable, for deferrals, petitions for review, appeals, and re-examination applicable to applicants for admission through the regular bar examination shall be applicable to applicants for examination under this Rule.

[Adopted effective December 31, 1992; amended effective August 24, 2000, for the February 2001 and subsequent examinations; amended effective April 15, 2004, for applications for the February 2005 and subsequent examinations.]

EXHIBIT "E" TO ORDER

RULES GOVERNING ADMISSION TO THE MISSISSIPPI BAR

RULE VI. ADMISSION BY COMITY AND RECIPROCIITY.

Section 1. Qualification of Applicant

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Section 2. Application

Any lawyer from another state desiring to practice in Mississippi must make application to the Board on the same forms as required of applicants for admission by general bar examination. Such application shall be subject to the provisions of Rule III, Sections 1 and 4 and Rule V. In addition, such applicant, shall file with the Board evidence of his good standing to practice law in the states in which he has previously been admitted, including a certificate from the Clerk of the highest appellate court of each state in which he has been admitted, and from two (2) members of the bar in each such state, certifying to his qualifications and good standing. The completed application of an attorney desiring to sit for the special "attorneys' examination" administered as part of the regular February bar examination must be filed on or before ~~September~~ November 1 preceding the February examination. The completed application of an attorney desiring to sit for the special "attorneys' examination" administered as part of the regular July bar examination must be filed on or before ~~February~~ April 1 preceding the July examination. The Board or the Committee on Character and Fitness may make additional inquiry as to the qualifications, good standing, and moral character of the applicant and may require submission of additional evidence by the applicant.

[Effective November 1, 1991; amended May 18, 1999, effective July 1, 1999 for applications for the February 2000 and subsequent examinations; amended effective April 15, 2004, for applications for the February 2005 and subsequent examinations.]

Section 3. Late Applications.

Any applicant who failed to file a timely application for the special "attorneys' examination" under Section 2 above, may file a late application with the Board from September 2nd to November 1st preceding the February special "attorneys' examination" for which he or she wishes to sit or February 2nd to April 1st preceding the July special "attorneys' examination" for which he or she wishes to sit.

Section 4 3. Fees

Each application for admission by comity and reciprocity filed by the deadlines set forth in Rule VI, Section 2, must be accompanied by a fee of \$1,000.00, plus an additional fee in such amount as the National Conference of Bar Examiners may charge in connection with a character investigation of \$200.00 to be used for a character investigation through the National Conference of Bar Examiners in jurisdiction(s) in which the attorney applicant has been previously admitted. The Board may in its discretion, for good cause shown, accept applications for admission by comity and reciprocity filed after the deadlines set forth in Rule VI, Section 2, provided that such application must be accompanied by a filing fee of \$1200.00, plus an additional fee in such amount as the National Conference of Bar Examiners may charge in connection with a character investigation of \$200.00 to be used for a character investigation through the National Conference of Bar Examiners in jurisdiction(s) in which the attorney applicant has been previously admitted. (Money order, certified check, or cash only.) The Board shall not accept any application for admission by comity and reciprocity not accompanied by the full amount of fees due. The Board or the Committee may require payment of additional investigation fees and costs as provided in Rule III, Section 4. Payment of the fee shall be made to the "Board of Bar Admissions." The fee is not refundable in whole or in part.

[Effective November 1, 1991; amended effective August 24, 2000, for the February 2001 and subsequent examinations; amended effective April 15, 2004, for applications for the February 2005 and subsequent examinations.]

Section 5 4. Conflict of Laws Among States Concerning Reciprocity and Comity

If the jurisdiction from which the applicant comes permits the admission of Mississippi judges and lawyers by comity and reciprocity but the rules of such jurisdiction are more stringent and exacting or contain other limitations, restrictions or conditions of admission or require payment of higher fees, the admission of applicant shall be governed by such rules and he shall pay the same fees which would apply to the applicants from Mississippi seeking admission to the bar in the applicant's former jurisdiction.

[Effective November 1, 1991; amended effective April 15, 2004 to renumber section.]

Section 6-5. Applicant Licensed to Practice by More Than One State.

If an applicant has been licensed by more than one state, the Board shall determine in its discretion the licensing state to which reference shall be made in determining whether to admit an applicant by comity and reciprocity.

[Effective November 1, 1991; amended effective April 15, 2004 to renumber section.]

Section 7-6. Definition of Practice of Law.

For purposes of admission under this Rule, practice for not less than five (5) years must consist of active practice of law, after admission to the bar of another jurisdiction, either as a partner or associate of a private or public law firm, as a legal officer of a corporation or other business organization, as a governmental employee whose duties are primarily providing legal advice or representation of the governmental agency in the courts, as a legal officer in the Armed Services, as a judge, magistrate, administrative judge or referee, or law clerk to a judge, or as a full time teacher in a law school approved by the Section on Legal Education and Admission to the Bar of the American Bar Association. Practice of law which qualifies for purposes of this Rule must have occurred within a state or states in which the applicant was then admitted to practice law and must have occurred while applicant was licensed by and in good standing with the court or other agency having authority over the practice of law in such jurisdiction.

[Effective November 1, 1991; amended effective April 15, 2004 to renumber section.]

EXHIBIT "F" TO ORDER

RULES GOVERNING ADMISSION TO THE MISSISSIPPI BAR

RULE IX. EXAMINATION.

Section 1. Requirements.

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Section 2. Preparation of the Examination.

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Section 3. Analysis of Questions.

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Section 4. Time and Place of Examination.

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C. Multi-state Professional Responsibility Examination. As a mandatory condition for admission to the Mississippi Bar by examination each applicant must achieve a scaled score of not less than 75 on the Multi-state Professional Responsibility Examination (MPRE) administered by the National Conference of Bar Examiners (NCBE). This score must be achieved on an administration of the MPRE within not less than twenty-four (24) months before or within not more than twelve (12) months after the date of administration of the Mississippi Bar Examination at which the applicant achieves a passing result. It shall be the responsibility of each applicant to register for and take the MPRE in the manner and at the time prescribed by the NCBE and to request that his scores be furnished by the NCBE to Mississippi Board of Bar Admissions. The MPRE may be taken before or after the administration of the Mississippi Bar Examination at which an applicant proposes to sit. However, applicants are strongly encouraged to take the MPRE before taking the Mississippi Bar Examination, since no applicant will receive a "certificate of eligibility for admission" until the Board receives the certification of the applicant's achieving the said minimum scaled score on the MPRE within the time period prescribed in this subpart.

However, those applicants who have within twenty-four (24) months preceding July 1, 2001 achieved a scaled score of not less than 70 shall be deemed to have passed the MPRE. Subject to this exception, the increased score and the requirement that the score must be

achieved on administration of the MPRE within the above stated time span shall be effective as to Bar Examinations administered from and after July, 2001.

[Section 4A amended effective for Mississippi Bar Examinations administered in February 1992 and thereafter; Section 4B amended March 14, 1995 effective from and after July 1, 1995, but examinations administered February 1995 are to be scored according to existing rules and also by the rules in the March 14, 1995 order; amended effective April 24, 1997. Section 4C was further amended December 14, 2000 to increase the required scaled score from 70 to 75 and require that it be achieved within a stated time span; amended effective April 15, 2004 .]

[The remainder of Rule IX is unchanged.]