

**IN THE SUPREME COURT OF PENNSYLVANIA
WESTERN DISTRICT**

In re: the Petition of LAW STUDENTS	:	
FOR EQUITABLE RESPONSES TO	:	
COVID-19 by Ryan Aloysius Smith and	:	
Pretty Martinez, Trustees ad Litem;	:	
ROBERT SUITE, MARY BETH KUZNIK,	:	74 WM 2020
BRANDON VANTINE, ROBERT GAVIN,	:	
CHRISTIAN WOLGEMUTH, JESSICA	:	
MCDERMOTT, RAVEN MOORE,	:	
DEREK DEMERI, CATHERINE CUFF,	:	
MICHELLE TABACH, KARLA	:	
PISARCIK, CAROLINE ROBELEN, and	:	
KARLI STUDY,	:	
	:	
	:	
<i>Petitioners.</i>	:	

**Respondent’s Application for Leave to File
Post-Submission Communication**

Pursuant to Pa. R.A.P. 2501(a), Respondent Pennsylvania Board of Law Examiners (the “Board”), by and through its undersigned counsel, moves for leave to file this post-submission communication.

1. On August 17, 2020, Petitioners, Law Students for Equitable Responses to COVID-19 (by Ryan Aloysius Smith and Pretty Martinez, Trustees ad Litem), Robert Suite, Mary Beth Kuznik, Brandon Vantine, Robert Gavin, Christian Wolgemuth, Jessica McDermott, Raven Moore, Derek Demeri, Catherine Cuff, Michelle Tabach, Karla Pisarcik, Caroline Robelen, and Karli Study

(collectively “Petitioners”), filed their “Petition for Review under the Court’s Exclusive Jurisdiction and for Extraordinary Relief under the Court’s King’s Bench Jurisdiction.”

2. Petitioners seek an order from this Court offering emergency licensure to October candidates for the Pennsylvania bar examination who have graduated from an ABA-accredited law school and who have never failed the bar exam of any jurisdiction, relief which is commonly referred to as a “diploma privilege.”

3. The Board filed a response to the petition on August 25, 2020.

4. In their submissions, both Petitioners and the Board addressed and analyzed the decisions of other jurisdictions—including Michigan, Ohio, Louisiana, Oregon, Utah, and Washington—on whether to grant diploma privilege or to proceed with some form of remote examination for their bar exam applicants.

5. Since the date of the Board’s submission, the highest courts of three other states—Connecticut, Maryland, and Alaska—have entered orders or otherwise rendered decisions on how they plan to administer their bar examinations in light of the restrictions necessitated by the COVID-19 pandemic. These orders and communications have been attached hereto as “Exhibit A.” Each declined a request to allow a diploma privilege.

6. The Board believes that these orders and communications will assist this Court in its analysis of the petition.

7. Accordingly, the Board respectfully requests that it be permitted to make this post-submission communication to alert the Court to these relevant developments.

WHEREFORE, the Board respectfully requests that this Court grant the relief requested in this application.

Respectfully submitted,

s/Geri Romanello St. Joseph
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	:	
	:	
<i>Petitioners.</i>	:	

CERTIFICATE OF SERVICE

The undersigned certifies that on September 3, 2020, she caused the foregoing *Application for Leave to File Post-Submission Communication* to be served via PACFile and first class U.S. mail where applicable to:

Louis M. Natali, Jr., Esquire
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{Signature on next page}

s/Geri Romanello St. Joseph

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*Counsel for Pennsylvania Board of Law
Examiners*

EXHIBIT “A”



STATE OF CONNECTICUT
SUPREME COURT

CHAMBERS OF
RICHARD A. ROBINSON
CHIEF JUSTICE

231 CAPITOL AVENUE
HARTFORD, CT 06106
TEL: 860-757-2113

August 31, 2020

Mr. Glenn Holmes, J.D.
Diploma Privilege for Connecticut

Dear Mr. Holmes:

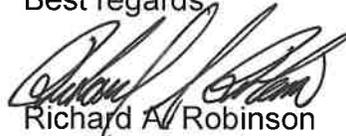
I first want to thank you for bringing your concerns – which are shared perhaps by hundreds of other recent law school graduates – about the challenges related to the remote administration of the Connecticut bar examination in October to my attention. The information that I received from you and others involved in this issue over the last few weeks was very valuable in my decision making process. I regret the amount of time that it has taken to come to this point, but I believe that it was necessary in order to collect all of the information that I needed to make the decision as to whether or not to ask the Rules Committee to consider a rule change that would create an exception to the requirement that an individual must successfully pass a bar examination in order to be admitted to the practice of law in the State of Connecticut. I have completed my review of the materials, including various letters, emails, and petitions, as well as the meeting between various stake holders and the Rules Committee, and I have come to a difficult decision that I will not seek a rule change at this time.

I have listened to and heard the concerns of Diploma Privilege for Connecticut as well as the Deans of the various Connecticut based laws schools. In fact I share some of the same concerns about bar examinations in general and agree that those very concerns may be exacerbated by an online examination process. However, I have also heard and taken into consideration the counter statements by the Connecticut Bar Examining Committee, the Statewide Bar Counsel and the Chief Disciplinary Counsel. I particularly was heartened by the Bar Examining Committee's representation that it will take into consideration and attempt to accommodate logistical challenges that may be faced by disadvantaged or underrepresented bar examination applicants.

Based on all of the information I have reviewed, I cannot at this time conclude the online process that is planned by the Connecticut Bar Examining Committee, along with the accommodations that are and will be offered, will not be sufficient to produce a fair and equitable examination process for the individuals taking the next bar examination.

I wish you and all of the applicants for the October examination the best of luck. Based on the impressive way you presented this petition to me, and the thoroughness of your presentation to the Rules Committee, I have no doubt your legal career will be a promising one.

Best regards

A handwritten signature in black ink, appearing to read "Richard A. Robinson". The signature is fluid and cursive, with a large initial "R".

Richard A. Robinson
Chief Justice

RAR:eah

cc: Justice Andrew J. McDonald
Rules Committee of the Superior Court
Hon. Anne C. Dranginis (Ret.), Chair, Bar Examining Committee
Dean Jennifer Gerarda Brown, Quinnipiac University School of Law
Dean Timothy Fisher, University of Connecticut School of Law
Heather K. Gerken, Yale Law School
Attorney Joseph J. DelCiampo, Director, Legal Services
Brian B. Staines, Chief Disciplinary Counsel

In the Supreme Court of the State of Alaska

**Elizabeth Carr, Rachel Bergartt,
Kelsey Croft, Alex Engeriser,
Christina Lowry, Anna Marquez, and
Kyle Roberson,**

Applicants,

v.

Alaska Bar Association,
Respondent.

Supreme Court No. S-17852

Order

Original Application

Date of Order: **8/28/2020**

Before: Winfree, Maassen, Carney, and Borghesan, Justices [Bolger,
Chief Justice, not participating]

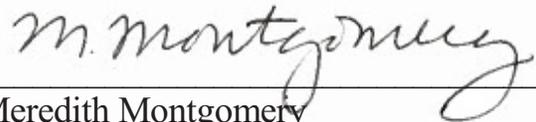
On consideration of the original application filed on **8/10/2020**, and the
response filed on **8/20/2020**,

IT IS ORDERED:

The application is **DENIED**. A written explanation will be issued at a later
date.

Entered at the direction of the court.

Clerk of the Appellate Courts



Meredith Montgomery

cc: Supreme Court Justices
Distribution:

Email:
Carr, Elizabeth
Bergartt, Rachel
Shanahan, Philip E.

IN THE COURT OF APPEALS OF MARYLAND
ADMINISTRATIVE ORDER
ON
THE OCTOBER 2020 MARYLAND BAR EXAMINATION
AND
OPTION FOR TEMPORARY SUPERVISED PRACTICE OF LAW

WHEREAS, as part of the regulation of the practice of law in Maryland, the Court of Appeals establishes requirements for admission to the Maryland Bar, including rules governing examinations for admission;

WHEREAS, pursuant to Maryland Rules 19-101 *et seq.* the State Board of Law Examiners (“Board”) is charged by the Court with administering the process for admission to the Maryland Bar;

WHEREAS, pursuant to Maryland Code, Business Professions & Occupations Article, §10-209, Maryland Rules 19-201(a)(3) and 19-203, and Board Rule 5, the Board is to administer the Uniform Bar Examination (“UBE”) in Maryland as part of the process for admission to the Maryland Bar;

WHEREAS, Maryland Rule 19-203(c) provides that the purpose of the bar examination is “to enable applicants to demonstrate their capacity to achieve mastery of foundational legal doctrines, proficiency in fundamental legal skills, and competence in applying both to solve legal problems consistent with the highest ethical standards” and

that it is the policy of the Court “that each applicant be judged for fitness to be a member of the Bar as demonstrated by the examination answers;”

WHEREAS, an applicant’s score on the UBE is a key element that permits those who take the UBE in Maryland to rely on their UBE score when seeking admission in other jurisdictions – sometimes referred to as the “portability” of the examination result;

WHEREAS, the outbreak of the novel coronavirus, COVID-19, according to guidance by the Centers for Disease Control and Prevention and the Maryland Department of Health, poses a threat of harm to individuals who congregate in large groups;

WHEREAS, the COVID-19 emergency requires measures to protect the health and safety of applicants to the Maryland Bar;

WHEREAS, in April 2020, the Chief Judge of the Court of Appeals established a working group to evaluate the feasibility of creating a temporary authorization to practice law in Maryland, subject to various conditions, in the event that the COVID-19 emergency rendered it impracticable to conduct the Maryland Bar Exam in the normal manner;

WHEREAS, on May 26, 2020, recognizing the impracticalities associated with administering a July 2020 bar examination, the Court, in conjunction with the Board, initially postponed the administration of the UBE in Maryland to September 9-10, 2020;

WHEREAS, on June 17, 2020, the Court approved the Board’s recommendation and authorized the announcement of remote administration of a shortened version of a bar examination similar in content to the UBE, developed in conjunction with bar admission authorities of other jurisdictions and the National Conference of Bar Examiners (“NCBE”), to be administered October 5-6, 2020, with examination materials delivered by ExamSoft Worldwide (“ExamSoft”), in lieu of the in-person September 2020 examination;

WHEREAS, as of the date of this order, the Board has reciprocal agreements for portability of scores earned on the October 2020 remote bar examination with bar admission authorities in Connecticut, the District of Columbia, Illinois, Kentucky, Massachusetts, New Hampshire, New Jersey, New York, Oregon, Ohio, Tennessee and Vermont, and bar admission authorities in Texas have announced that Texas will accept transferred scores earned on administration of the October remote bar exam from all states listed above;

WHEREAS, on July 31, 2020, certain applicants to the Maryland Bar submitted to the Court a document entitled “Emergency Petition for Temporary Suspension of UBE Requirement and Order Granting Emergency Diploma Privilege Plus” (“Diploma Privilege Petition”), in which those applicants requested that the Court waive the requirement under Maryland Rule 19-201(a)(3) that an applicant achieve a qualifying score on the UBE;

WHEREAS, the Court requested that the Board provide an update on the plans for the remote administration of the October bar examination and the Board provided that update in a letter dated August 18, 2020;

WHEREAS, on August 20, 2020, the Court sought public comment on the Board's update;

WHEREAS, the Court has received numerous comments concerning the Diploma Privilege Petition and the Board's update, and has carefully considered those comments, as well as the alternatives to the UBE adopted by other jurisdictions;

WHEREAS, the Court is satisfied that the Board has, in coordination with bar admission authorities in other jurisdictions and the NCBE, developed a remote bar examination that offers the best alternative, based on all available information, for retaining the integrity of the Maryland Bar Exam consistent with the policy stated in the Maryland Rules;

WHEREAS, the concerns expressed in the comments received include the availability of a quiet location without distraction in which to take the remote examination, and other concerns about the ability to successfully take the remote examination;

WHEREAS, law schools and other entities have space that can provide a quiet location without distraction for those taking a remote examination;

WHEREAS, the Court believes that, for those applicants who remain uncomfortable with taking the October 2020 remote bar examination during the current pandemic, it is also in the interest of justice to offer an option to apply for a temporary special authorization for supervised practice of law in Maryland, in lieu of taking the October 2020 remote bar examination – an option that is set forth in a separate Order issued on this same date; and it is this 28th day of August 2020

ORDERED, by the Court of Appeals that:

(a) The originally planned administration of the in-person UBE in Maryland during September 2020 is cancelled;

(b) The Board shall proceed with administration of the remote bar examination on October 5-6, 2020;

(c) The Board shall provide in-person testing locations for the October bar examination only to the extent necessary to carry out previously-approved ADA test accommodations requiring non-standard, non-electronic test materials;

(d) For those applicants who lack a quiet location without distraction in which to take the examination, the Board shall assist law schools and other entities desiring to provide testing locations for those applicants to develop protocols for such test locations, publicize the availability of those locations to applicants, and

facilitate, to the extent practicable, the ability of applicants to take the examination at such locations;

(e) The Board shall cause all applicants registered for the now-cancelled in-person UBE in Maryland to receive appropriate information permitting registration for the October 2020 remote bar examination, including a deadline for registration;

(f) Applicants intending to take the October 2020 remote bar examination shall complete all steps necessary for registration with ExamSoft by the registration deadlines established by the Board and ExamSoft;

(g) The Board shall withdraw the Notice of Intent of any applicant failing to register with ExamSoft by the registration deadlines established by the Board and ExamSoft;

(h) The Board shall apply a policy, similar to the policy applied at in-person bar examinations, that an applicant is responsible for any mechanical failure or malfunction of the applicant's computer or other equipment, including equipment involved in accessing the internet, before, during, or after the administration of the remote bar examination.

(i) No new, additional, or extended application filing period shall be provided by the Board, absent further Order of this Court;

(j) Requests for the Board to accept late-filed applications pursuant to Maryland Rule 19-206(d) and Board Rule 2 shall be addressed pursuant to those Rules;

(k) The Board shall advise applicants by email, posting on its website, and other means as appropriate, information concerning the remote bar examination, including, among other things, access to passwords, the availability of mock examinations, and policies concerning permitted and prohibited electronic devices; and

(l) The Board shall provide periodic updates to the Court on any significant developments related to the administration of the remote bar examination.

/s/ Mary Ellen Barbera
Chief Judge

/s/ Robert N. McDonald

/s/ Shirley M. Watts

/s/ Michele D. Hotten

/s/ Joseph M. Getty

/s/ Brynja M. Booth

/s/ Jonathan Biran

Filed: August 28, 2020

/s/ Suzanne C. Johnson
Clerk
Court of Appeals of Maryland

Pursuant to Maryland Uniform Electronic Legal Materials Act
(§§ 10-1601 et seq. of the State Government Article) this document
is authentic.



Suzanne Johnson
2020-08-28 13:53-04:00

Suzanne C. Johnson, Clerk