

8 July 2020

Chief Justice George W. Draper III

Judge Paul C. Wilson

Judge Mary R. Russell

Judge W. Brent Powell

Judge Patricia Breckenridge

Judge Laura Denvir Stith

Judge Zel M. Fischer

Ms. Andrea Spillars, Executive Director, Missouri Board of Law Examiners

Via Email and Post

Dear Chief Justice Draper, Members of the Court, and Executive Director Spillars,

We hope this letter finds you, your families, and your staffs well. This is such an extraordinary time for all of us. For that reason, we write today to request your reconsideration of in-person administration of the July bar examination in Missouri.

As deans of Missouri's four law schools, we have been grateful for your thoughtful approach to administration of the bar exam over the last three months and laud your efforts to address the historic challenges confronting current applicants for admission to the practice of law in our state. We appreciate specifically your proactive leadership in expanding Rule 13 certification and setting a backup bar exam test date, should in-person administration of the bar exam in July become unsafe because of the coronavirus pandemic. Indeed, your measured approach, reflected in the Court's Order dated April 28, 2020, re: July 2020 Uniform Bar Examination, truly set the national standard for getting graduates qualified to practice law in ways that were sensible based on the public health information available at the time. It is also clear that the Missouri Board of Law Examiners has worked hard to adopt an innovative approach to administration of the bar exam that considers public health, while also seeking diligently to ensure that the bar exam is nevertheless administered. We are all grateful for this thoughtful, balanced approach.

However, we now understand the risks of COVID-19 better than we did before. Among other things, we understand better that prolonged indoor exposure in large group settings presents heightened risk; we know that there are likely many Missourians who have contracted COVID-19 but do not have any symptoms; we also know that the death rate is disproportionately high for members of the Black community and other communities of color, which is deeply troubling and raises issues of equity; and we know that, sadly, the number of cases in Missouri is currently on the rise, as it is in much of the country.

Based on the escalating number of coronavirus cases in Missouri and the other factors identified above, we write today to urge you to reconsider holding an in-person bar exam on July 28 and 29 and to consider alternatives – alternatives that will protect the public from lawyer incompetence, and will also protect the health and well-being of our graduates.

Please know that this letter comes from a place of genuine concern – as well as fear – for our recent graduates. Of course, our recent graduates have all the traditional anxieties of bar exam takers, such as preparing for and performing well on the exam, finding a job, beginning law practice, repaying their law school loans, and so on – the ordinary experience of the recent law school graduate. But this pandemic, and particularly the rising number of coronavirus cases in Missouri, has caused many of them significant stress and anxiety not experienced by prior test takers.

The additional stress and anxiety have many forms. First, the pandemic has exacerbated existing inequities faced by some of our students, leaving many of them without adequate places to study or the technological or financial resources to focus on the bar exam. Second, many of those who have adequate resources to study find themselves distracted by the uncertainty over whether the exam will be cancelled at the last moment, especially given the number of states cancelling or delaying their exams in just the last two weeks. Third, some of our graduates – those who are members of the Black community or other communities of color, have seen very clearly the numerous reports showing that this pandemic has a disproportionate effect on their communities, giving them understandable, grave concern for their grandparents, their children, and their other loved ones, not to mention their own health. And, finally, the rising coronavirus case number in Missouri makes many of our graduates feel as if they are being asked to make an impossible choice between protecting their health and the health of their loved ones, and securing their careers and financial futures. All the foregoing has led to our request that you reconsider alternatives to an in-person bar exam in July, as other states have.

We realize that any alternative must consider not only first-time takers from Missouri law schools, but also first-time takers from outside Missouri, those registered for the UBE in another jurisdiction who may not be able to take that exam, and those not taking the exam for the first time. We offer for your consideration the following alternatives to an in-person bar exam in July:

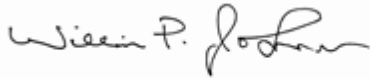
1. One option, and the option we believe to be the most equitable under these extraordinary circumstances, is to adopt a one-time provisional admission option, with restrictions, for graduates of Missouri law schools. The Court could grant provisional admission, with a probationary period, and impose distinctive Continuing Legal Education requirements for the first year of law practice under the provisional license. The provisional license would convert to a full license within a year if the licensee received no substantiated allegation of misconduct or ethical violation and satisfied the enhanced CLE requirements. If the Court pursues this option, each of us would be delighted to work with you to provide these provisional licensees enhanced CLE programs, including, for example, training centered around law practice management, ethics, client protection, and distinctive aspects of Missouri law. A small number of test takers (those who previously did not pass, and those taking the Missouri bar exam who did not graduate from a Missouri law school) would still need to take the bar exam. The number would be such that distancing and other precautions would be much more likely to facilitate a safe testing environment at an appropriate time, depending on then-applicable advice from public health experts.

2. Alternatively, expand Rule 13 certification to allow current applicants who have passed the character and fitness screening in Missouri to hold a temporary license for up to one year under supervision, without limiting the certification to public service or pro bono practice. Currently, Missouri Supreme Court Rule 8.06 provides for a temporary certificate to practice law for up to twelve months, available to licensed attorneys in good standing in other U.S. jurisdictions who are seeking licensure in Missouri. Like Rule 13, the rule requires supervision by a licensed attorney in Missouri. Unlike Rule 13, the types of practice permitted under this rule are not limited to public service and pro bono practice. Expanding Rule 13 in a manner analogous to Rule 8.06 would protect the safety of current applicants and would provide them the ability to practice, while also protecting their clients.

We acknowledge these alternatives are imperfect, but we believe that they reasonably balance the needs of the public and the unprecedented hardships faced by this year's examinees.

Thank you for the time and consideration you have already given to protecting tomorrow's Missouri lawyers, and thank you for considering our proposals. We welcome a discussion of bar qualification during this continuing pandemic with you, if that would be helpful.

Sincerely,



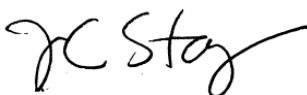
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