

IN THE SUPREME COURT OF FLORIDA

**IN RE: AMENDMENTS TO RULES OF THE
SUPREME COURT RELATING TO
ADMISSIONS TO THE BAR**

CASE NO. SC09-____

Petition

The Florida Board of Bar Examiners petitions the Court for approval of certain amendments to the Rules of the Supreme Court Relating to Admissions to the Bar.

Jurisdiction

The Court has jurisdiction of this matter pursuant to Article V, Section 15 of the Florida Constitution and Rule 1-13 of the Rules of the Supreme Court Relating to Admissions to the Bar.

Rule Development History

The Board has been engaged in an ongoing review of its budget and the schedule of fees for bar applicants. The board concluded that an increase of its fees is needed for the board to continue to meet its responsibility to the court. That responsibility is set forth in rule 1-14.2 that states: “The board must ensure that each applicant has met the requirements of the rules with regard to character and fitness, education, and technical competence prior to recommending an applicant for admission.”

The board last petitioned the court for a fee increase in June 1995. In its petition, the board stated that proposed fee schedules would “enable the Board to maintain a five-year plan through fiscal year 1999-2000 for budgeting purposes.” The court subsequently approved the new fee schedules effective April, 1, 1996. *Florida Board of Bar Examiners re Amendments to the Rules of the Supreme Court of Florida Relating to Admissions to the Bar*, 676 So. 2d 372 (Fla. 1996) (opinion on grant of rehearing and clarification).

In its 1995 rule amendment petition, the board concluded its rationale for the proposed fee increase with the following: “As it has in the past, the board continues to explore and implement means by which the board can effectively fulfill its mission in the most cost efficient manner. Cost-saving measures must not, however, take precedence over protecting the public as mandated by the

Court.” Since 1996, the board has been successful in meeting its court-mandated responsibility in a cost efficient manner. In fact, it has been over 13 ½ years since the last increase for bar admission fees.

In its petition, the board recommends that its fees be adjusted based on the rate of inflation since 1996. The inflation rate from April 1996 to October 2009 was 38.27%.¹ Stated differently, \$1.00 in 1996 has the same buying power as \$1.38 in 2009.²

The fee increases contained in the proposed rule amendments have been approved by the board, and no individual board member will be filing a written dissent or objection to any of the proposals.

Summary and Discussion of Proposed Rule Amendments

The adoption by the court of the proposed rule amendments will implement new fee schedules for applicants seeking admission to The Florida Bar. Fee increases are based on one or both of the following factors: the rate of inflation since the last fee increase in 1996; and the board’s ongoing effort to pass on costs to the specific applicants whose applications incur costs beyond the ordinary costs involved in the routine processing of a bar application. The following paragraphs summarize and discuss the rule amendments as proposed by the board.

RULE 1. GENERAL

The board recommends that rule 1-63.5 be amended to increase the cost for a copy of the bar application from \$35 to \$50.

RULE 2. APPLICATION REQUIREMENTS

The board recommends that rule 2-23.1 be amended to increase the fees applicable to student registrants from \$75 to \$100 for early registration and from \$300 to \$350 for delayed registration. The proposed rule amendment to rule 2-23.2 would increase the student applicant fee from \$875 to \$1,000. The proposed amendment to rule 2-23.3 would increase the fee for the Supplement to Registrant Bar Application from \$375 to \$600 for less than 5 years and from \$875 to \$1,000 to more than 5 years.

The board recommends that rule 2-23.3 be amended to increase the fee schedule for attorneys who have been admitted in another jurisdiction for over 12

¹ http://www.inflationdata.com/Inflation/Inflation_Calculators/Inflation_Rate_Calculator.asp#results

² http://www.bls.gov/data/inflation_calculator.htm

months in the following manner: from \$1,300 to \$1,600 for attorneys admitted less than 5 years; from \$1,600 to \$2,000 for attorneys admitted more than 5 but less 10 years; from \$2,000 to \$2,400 for attorneys admitted more than 10 but less 15 years; and from \$2,500 to \$3,000 for attorneys admitted more than 15 years. The proposed amendment to rule 2-23.6 would increase the fee for a disbarred attorney or an attorney who resigned with pending disciplinary proceedings from \$5,000 to \$6,000.

The board recommends that rule 2-28 be amended to increase the fee for applicants who were previously denied admission from \$1,800 to \$2,200. The proposed amendment to rule 2-29 would increase the stale file fee from \$425 to \$525 if within 5 years. The proposed amendment to rule 2-30.1 would increase the fee for a petition for reconsideration of an administrative decision from \$50 to \$75.

RULE 3. BACKGROUND INVESTIGATION

The board recommends that rule 3-14.3 be amended to increase the fee charged by the board for an application filed in a defective condition from \$100 to \$150. The proposed amendment to rule 3-22.1 would increase the fee for the cost of an investigative hearing from \$80 to \$250. The proposed amendment to rule 3-22.3 would increase the fee for postponement of an investigative hearing from \$50 to \$75 if received at least 31 days before the hearing and from \$75 to \$125 if received less than 31 days before the hearing.

The board recommends that rule 3-23.3 be amended to increase the fee for the cost of a formal hearing from \$300 to \$600. The proposed amendment to rule 3-23.5 would increase the fee for postponement of an investigative hearing from \$100 to \$250 if received at least 31 days before the hearing date and from \$300 to \$600 if received less than 31 days before the hearing date. The proposed amendment to rule 3-30 would increase the fee for a petition for reconsideration of a character and fitness decision from \$125 to \$165.

RULE 4. BAR EXAMINATION

The board recommends that rule 4-43.1 be amended to increase the late filing fee for applications related to the bar examination from \$275 to \$325 if postmarked or received by December 15 for the February examination and by June 1 for the July examination. The proposed amendment to rule 4-43.2 would increase the late fee for applications related to the bar examination from \$525 to \$625 if postmarked or received after December 15 but by January 15 for the February examination and after June 1 but by June 15 for the July examination.

The board recommends that rule 4-45 be amended to increase the fee for using a computer to type answers to the essay questions from \$100 to \$125. The proposed amendment to rule 4-47.1 would increase the fee for postponing the

taking of the examination from \$75 to \$100 if received at least 7 days before the examination. The proposed amendment to rule 4-47.2 would increase the fee for postponing the taking of the examination from \$150 to \$200 if received prior to the examination but less than 7 days before the examination. The proposed amendment to rule 4-48 would increase the reexamination fee from \$375 to \$450.

RULE 5. RECOMMENDATIONS AND JURISDICTION

The board recommends that rule 5-13.2 be amended to provide without cost the Certificate of Admission and the Oath of Attorney. The rule amendment further allows the purchase of additional certificates for \$25 each.

Effective Date of Proposed Rule Amendments

The board requests that the amendments adopted by the Court be effective on release of the Court's order.

Appendixes

Appendix A to this petition is the proposed rule amendments in legislative format. Appendix B to this petition is the text of the proposed rule amendments with the reasons for the changes. Appendix C is the condensed version of the proposed rules amendments for publication in The Florida Bar News. Appendix D is the certification of compliance with Part I(d) of the Guidelines for Rules Submission.

Dated this 23rd day of December, 2009.

Florida Board of Bar Examiners
J. Jeffrey Wahlen, Chair

Michele A. Gavagni
Executive Director

By: _____
Thomas Arthur Pobjecky
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Certificate of Service

I hereby certify that true and correct copies of the foregoing Petition and Appendix A (Proposed Rule Amendments in Legislative Format) have been served by U.S. Mail this 23rd day of December, 2009 to the following:

John F. Harkness, Jr., Executive Director, The Florida Bar, 651 East Jefferson Street, Tallahassee, FL 32399-2300;

Acting Dean Eugene R. Milhizer, Ave Maria School of Law, 1025 Commons Circle, Naples, FL 34119;

Dean Leticia Diaz, Barry University School of Law, 6441 East Colonial Drive, Orlando, FL 32807-3650;

Dean LeRoy Pernell, Florida A & M University College of Law, 201 Beggs Avenue, Orlando, FL 32801;

Dean C. Peter Goplerud, III, Florida Coastal Law School, 8787 Baypine Road, Jacksonville, FL 32256;

Dean R. Alex Acosta, Florida International University, College of Law, University Park, GL 495, Rafael Diaz-Balart Hall (RDB), Suite 1055, Miami, FL 33199;

Dean Donald J. Weidner, Florida State University College of Law, 425 West Jefferson Street, Tallahassee, FL 32306-1601;

Dean Athornia Steele, Nova Southeastern University, Shepard Broad Law Center, 3305 College Avenue, Ft. Lauderdale, FL 33314;

Dean Alfredo Garcia, St. Thomas University School of Law, 16400 N.W. 32nd Avenue, Miami, FL 33054;

Dean Darby Dickerson, Stetson University College of Law, 1401 61st Street, South, St. Petersburg, FL 33707;

Dean Robert Jerry, University of Florida, Fredric G. Levin Law Center, Post Office Box 117620, Gainesville, FL 32611; and
Dean Patricia D. White, University of Miami School of Law, 1311 Miller Drive, Room F203, Coral Gables, FL 33146.

Thomas Arthur Pobjecky

Certificate of Type Size and Style

I hereby certify that the size and style of type used in this Petition are 14 Times New Roman.

Thomas Arthur Pobjecky