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FILED

April 9 2015

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

Case Number: AF 11-0244

April 8, 2015

FILED

APR 09 2015

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

Ed Smith
Clerk of the Montana Supreme Court
P.O. Box 203003
Helena, MT 59620-3003

Re: *In re the Rules of Admission to the Bar of Montana*
AF 11-0244

Dear Mr. Smith:

The Board of the Montana Defense Trial Lawyers (MDTL) has considered the Court's proposal to re-implement admission on motion and adopt reciprocity rules in Montana. The MDTL opposes the proposal.

The Montana bar is based on a unique culture of professionalism and collegiality uncommon in other jurisdictions. Montana has long guarded the competence of our local bar, and the citizens of this State have had access to quality legal services at rates which pale in comparison to other jurisdictions. The collegiality that is found in Montana, in the MDTL's opinion, results in efficient handling of matters for our clients. The MDTL has serious concerns that the proposed changes would substantially alter the practice of law in Montana.

The proposed rules have a direct impact on the defense bar in Montana because many of our members' clients are corporate, whom until this point have been required to hire Montana lawyers to assist in their legal needs here in Montana. These are lawyers who are versed in the local practice and procedure, understand Montana's unique laws, including, for example, the policies established by the Legislature and Supreme Court for fair claims settlement practices, and are vested members of the bar. The proposed rules would permit corporate clients to retain counsel from large firms in metropolitan areas to conduct their legal business in Montana. Under the proposed rules it will be simple for these large firms to have several attorneys who are admitted by motion in Montana but practice from their offices in New York, Chicago, Denver, Seattle, or Los Angeles. The MDTL feels strongly that there is a real benefit to the citizens of Montana to having these corporations retain local counsel in Montana. The boots on the ground approach, if you will, keeps Montana citizen's best interest at heart.

The current *pro hac vice* rules provide a safeguard to the citizens of the State because they require the lawyers to practice in a responsible manner. Abuse of the privilege can swiftly be handled by the Court by withdrawing the grant of limited representation. It is no secret that Montana courts are already overburdened with heavy caseloads,

insufficient funding, and mounting backlog. By opening the practice of law to individuals who are not used to, nor subscribe to the Montana culture, will place a great burden on the courts to address abuses.

If the Court decides to adopt the proposed rules, the MDTL respectfully asks the Court to give consideration to the State Bar of Montana's comments and proposal for an applicant fee to be assessed at a minimum of \$2,500 to insure applicants are bearing full financial responsibility for their membership. The MDTL agrees with the State Bar of Montana's comments that the "costs for any rules adopted should be borne entirely by those seeking reciprocity" and "any impact resulting from admission on motion ... should be revenue neutral."

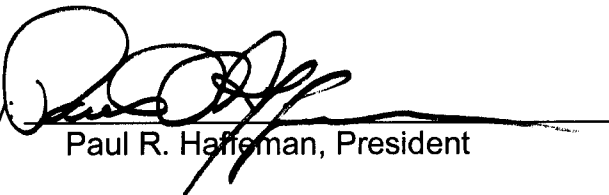
Furthermore, to address the MDTL's concerns discussed above, it proposes the Court consider some limitation on the criteria of admission on motion to those individuals who become permanent residents or certify the intention to maintain and conduct his/her primary practice of law in Montana. This is a similar provision adopted by the State of Alabama for its admission on motion. See Ex. 1, p. 2 to State Bar Cmts. This proposal is supported by many of the comments submitted to the Court by individuals who support the rules for admission on motion. In reviewing those comments, it is clear the subject individuals who would seek admission have a vested interest in practicing law in Montana and helping the citizens of Montana. See e.g., Wiles Cmts (currently working for the Department of Interior Solicitor's Office in Billings); Tanko Cmts (discussing the practice of offering wills, trusts, and estate planning in Montana); Newton Cmts (relocated to Montana due to spouse obtaining employment); MLSA Cmts (discussing rules assisting in the recruitment and retention of legal aid lawyers in Montana); Mills Cmts (employment at the University of Montana School of Law); and Lucas Cmts (seeking to retire to Montana with family and to continue practice of law). The MDTL believes this is a compromise that would maintain the integrity of the State Bar of Montana.

The MDTL also requests the Court consider clarifying language that admission on motion be limited to jurisdictions that grant similar privileges to attorney applicants from Montana, including admission on motion without additional examination. Similarly situated states comparable to Montana and its bar likewise have such limitations. See e.g., Ex. 1, p. 5 of State Bar Cmts (noting requirements of Oregon and Wyoming); Ex. 1, p. 4 (identifying Alaska, Arizona, Colorado, Idaho, New Mexico, Oregon, South Dakota, and Wyoming as states which base admission on motion on reciprocity).

In conclusion, the MDTL respectfully requests the Court not adopt the proposed reciprocity rules. The MDTL urges the Court to consider the ramifications adoption of the proposed rules will have on the State, its licensed attorneys, and the practice of law in Montana. However, if the Court finds the changes in the rules are in the best interest of Montana, then the MDTL strongly urges the Court to include provisions in the rules that

make the changes “revenue neutral” to the current practicing bar, address abuses, and encourage inclusion of prospective practitioners who are invested in working in Montana.

Thank you for the opportunity to present comments. On behalf of and for the Board of the Montana Defense Trial Lawyers,

By: 
Paul R. Haffeman, President

Cc: MDTL Board