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 ORIGINAL

FILED

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Bowen Greenwood
Clerk of Supreme Court
State of Montana

Attorney for Petitioner

IN THE SUPREME COURT OF THE STATE OF MONTANA
PR-06-0422

IN RE: BERNADETTE FRANKS-
ONGOY,

Petitioner.

**VERIFIED PETITION TO
WAIVE MPRE REQUIREMENT
IN APPLICATION FOR
ADMISSION BY MOTION TO
MONTANA STATE BAR**

Comes now, Bernadette Franks-Ongoy (Bernie), by and through her attorney of record, Tal M. Goldin of Disability Rights Montana, and petitions this Court to waive the Multistate Professional Responsibility Examination (MPRE) requirement for admission via Rule V of the Rules for Admission to the Bar of Montana (Rule V) so she may then petition for admission under Rule V.

BACKGROUND

Throughout her nearly 40-year legal career, Bernie has been an advocate for civil rights, particularly those of people with disabilities. She graduated from the University of San Diego School of Law and was admitted to the Hawaii State Bar in 1984. From 1984 to 1985, Bernie served as a law clerk for Hon. Leland

Spencer in the Hawaii First Circuit Court, Oahu, a trial level court of general jurisdiction. In 1985–86 Bernie served as the inaugural Executive Director of the Hawaii Bar Foundation and built the State’s IOLTA program. This position required careful interaction with applicable rules of professional responsibility. For the next five years, Bernie was Deputy Corporation Counsel for the City and County of Honolulu, where, amongst other responsibilities, she gained extensive experience prosecuting race discrimination claims, including against the Hyatt Hotel in Waikiki. From 1991–94 Bernie was the Director of Programs for the Protection and Advocacy Agency (P&A)¹ of Hawaii (now Hawaii Disability Rights Center). From 1994–98 Bernie returned to the Honolulu Office of the Corporation Counsel where she maintained an active administrative litigation, regulatory, and policy practice and served as legal advisor to the Administrator.

In 1998, Bernie and her young family moved to Helena, MT when Bernie took on the Executive Director role at the non-profit now called Disability Rights

¹ P&As are federally mandated entities established by Congress to protect the rights of all individuals with disabilities. There are 57 P&As covering all U.S. states and territories, the District of Columbia, and the Native American Disability Law Center serving the indigenous communities in the Four Corners region. *See e.g.*, Protection and Advocacy for Individuals with Mental Illness Act (PAIMI Act), 42 U.S.C. § 10801, et. seq., the Developmental Disabilities Assistance and Bill of Rights Act (DD Act), 42 U.S.C. § 15041, et. seq., the Protection and Advocacy of Individual Rights Program of the Rehabilitation Act of 1973 (PAIR Act), 29 U.S.C. § 794e, and the Traumatic Brain Injury Act of 1996 (TBI Act) (P.L. 104-66), reauthorized as part of the Children’s Health Act of 2000 (P.L. 106-310).

Montana (DRM), Montana's P&A and Client Assistance Program² (CAP). During nearly 25 years of Bernie's tenure, DRM has worked tirelessly towards its mission to protect and advocate for the human, legal, and civil rights of Montanans with disabilities while advancing dignity, equality, and self-determination. Under Bernie's leadership DRM has advocated for thousands of Montanans with disabilities who need help to live independently; work in integrated employment; study in K-12 schools and post-secondary institutions; receive healthcare in community and institutional facilities; age with dignity and respect for their bodily autonomy; serve sentences in state, local, and juvenile correctional facilities without discrimination; and access all areas of public life. DRM's work during Bernie's tenure included multiple long-term class actions regarding conditions at the Montana State Prison and what was then called the Montana Developmental Center; groundbreaking litigation in K-12 education for students with disabilities; advocacy and enforcement actions in Medicaid, Social Security, Vocational Rehabilitation and other matters; investigation of abuse and neglect in facilities serving people with disabilities; community education; coalition building; and administrative and legislative policy work.

² Similar to P&As, CAPs are federally mandated programs that help individuals with disabilities navigate the vocational rehabilitation system and interact with centers for independent living. *See* 29 U.S.C. § 732. DRM is both the P&A and CAP for Montana.

Since Bernie relocated to Montana, she has maintained an active Hawaii law license in good standing. Bernie has not previously held a Montana law license and did not practice law in Montana. Although Bernie provided general administrative oversight of all DRM staff, Bernie did not direct the legal work of DRM's attorneys, who each exercised independent professional judgment and, in some cases, were supervised by other attorneys licensed in Montana. Recognizing her extensive prior practice experience, attorneys at DRM regularly seek Bernie's counsel and advice and she remains actively aware of all of DRM's legal work, including through participation in weekly and ad-hoc meetings of DRM's attorney work group. Bernie has also served as the plaintiff's representative when DRM has sued in its own name.

Throughout her tenure at DRM, Bernie remained current with the increasing complexities and evolution of disability rights law and practice. Over the past 25 years, Bernie has hired, mentored, and guided the development of over 30 disability rights lawyers. Bernie regularly testifies before the Montana Legislature on disability rights issues, both on proposed bills and invited informational panels during regular and interim sessions.

Bernie has also actively served the Disability Community at both the state and national levels. Bernie was DRM's representative on the Montana Access to Justice Commission in the early 2000s. She served as the president of the National

Disability Rights Network (NDRN)³ board of directors from 2000-02. Bernie was nominated to the Social Security Advisory Board⁴ (SSAB) by Senator Max Baucus, in his role as Chairman of the Senate Finance Committee and confirmed by the Senate. She served on the SSAB from 2013-19.

After 25 years at DRM, Bernie plans to enter semi-retirement in December 2023. In her retirement, Bernie would like to remain in service to Montana's disability community and DRM by taking on cases for pro-bono representation through DRM. To that end, Bernie now seeks admission to the Montana Bar.

Since admission to the Hawaii Bar, Bernie has remained in good standing without any substantiated ethical or disciplinary complaints. Bernie has also complied with CLE requirements, including ethics requirements to maintain her Hawaii license.

CONCLUSION

In light of her years of admission to the Hawaii Bar in good standing; extensive prior practice experience; ongoing Continuing Legal Education compliance, including ethics requirements; experience in ethically operating a

³ NDRN is the national association of the 57 P&A and CAP organizations. *See* www.ndrn.org.

⁴ The SSAB is a bipartisan, independent federal government agency which advises the President, Congress, and the Commissioner of Social Security regarding Social Security benefits programs. The Board's seven members are appointed by the President, Senate and House of Representatives. *See* <https://www.ssab.gov/about-ssab/>.

federally mandated non-profit organization in compliance with federal grant, statutory, and regulatory requirements and the Montana Rules of Professional Conduct; state and national leadership on disability rights issues; and desire to continue to serve the people of Montana in retirement, Petitioner respectfully requests that the Court recognize that Bernie's has demonstrated an understanding of the requirements for the ethical practice of law in Montana and need not so demonstrate by taking the MPRE as a predicate to admission on motion under Rule V(A)(9).

REQUEST FOR RELIEF

WHEREFORE Petitioner respectfully requests that the Court waive the MPRE requirement under Rule V(A)(9) as to Petitioner as a predicate to her admission on motion to the Montana Bar and so inform the State Bar of Montana.

Dated this 5th day of May, 2023.

DISABILITY RIGHTS MONTANA

BY: 
TAL M. GOLDIN

VERIFICATION

COMES NOW Bernadette Franks-Ongoy, and pursuant to Mont. Code Ann. § 1-6-105,
declares that she has read the foregoing and the facts asserted therein are true and correct.

Signed this 5th day of May, 2023 at Helena, MT.

A handwritten signature in blue ink, appearing to read 'Bernadette Franks-Ongoy', written over a horizontal line.

BERNADETTE FRANKS-ONGOY