

ORIGINAL

FILED
October 10, 2014

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

IN THE SUPREME COURT OF THE STATE OF MONTANA

OCT 10 2014

IN RE:

JANA L. WALKER,
Petitioner

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**PETITION FOR PERMISSION TO TAKE THE
MONTANA BAR EXAM A FOURTH TIME OR
ALTERNATIVELY FOR A WAIVER OF THE
BAR EXAMINATION REQUIREMENT**

Ed Smith

CLERK OF THE SUPREME COURT
STATE OF MONTANA

I, Jana L. Walker, respectfully petition the Supreme Court of Montana under Section III(L) of the Rules for Admission to the Bar of Montana (Rules) for permission to sit for the Montana Bar Examination a fourth time. The steps I have taken and would take to improve my chances of success follow. I have a good faith belief that I can pass the exam and have come as close as one can — scoring 269 — without passing in Montana.

Alternatively, under Section III(C) of the Rules, I also respectfully petition the Court for a waiver of the requirement to take and pass the Montana Bar Examination based on my qualifications and many years of experience focusing on federal Indian law, tribal law, and indigenous peoples' human rights law; my successfully passing of the New Mexico and Arizona bar exams; and long time active bar licensure and good standing in the state bars of New Mexico (1987), Arizona (1988), and the District of Columbia (1989). I seek admission to the Montana bar for the limited purpose of being able to practice law with the Indian Law Resource Center, a nonprofit law and advocacy organization established and directed by American Indians. The Center, which has offices in Helena, MT and Washington, D.C., provides assistance without charge to Indian tribes and other indigenous peoples throughout the Americas who are working to protect their lands, resources, human rights, environment, and cultural heritage. A letter of support from my current employer, the Indian Law Resource Center, is attached as Exhibit A. I have already met other requirements under the Rules, including successfully passing the MPRE

on the first attempt in 2013, qualifying and sitting for the Montana Bar Examination, and attending the July 2013 Montana Law Seminar.

ABOUT PETITIONER

I earned my J.D. *cum laude* in 1987, graduating 10th in my class from the University of New Mexico School of Law and successfully sat for and passed on the first try bar examinations in New Mexico and Arizona. I am admitted to practice in New Mexico (1987), Arizona (1988), and the District of Columbia (1989), and remain active and in good standing within all of these jurisdictions. For over 23 continuous years, my New Mexico-based practice, as a solo practitioner and attorney in AV-rated firms, focused on federal Indian law, tribal law, and indigenous peoples law and was devoted to the representation of Indian tribes and Indian organizations.

I am citizen of the Cherokee Nation (Cherokee/Delaware/Shawnee) and also the first member of a federally recognized tribe to become a New Mexico Board Certified Specialist in Federal Indian Law (2006-2011). In 2007, Southwest Super Lawyers selected me as one of seven attorneys listed in the Native American Law practice area covering New Mexico and Arizona. Over the years, I have been an active member and leader within the American Bar Association, Federal Bar Association, and New Mexico Bar Association, and a frequent speaker, panelist, and writer on various Indian law and indigenous issues in national and international fora. I was appointed by the New Mexico Supreme Court to a three-year term on the New Mexico Board of Bar Examiners, including appointment as the 2009-2010 Board Vice Chair. Further details of my background and qualifications are on my resume attached as Exhibit B.

In April 2011, I moved to Helena, MT specifically to fulfill a long time goal – to work at the Indian Law Resource Center, a prominent national nonprofit organization founded in 1978 that helps Indian nations and other indigenous peoples throughout the Americas to combat racism, discrimination, and injustice, and to realize their human rights. Remarkably, the Center accepts no government funds, yet has always offered its services free of charge. Although the Center has one other office in Washington, D.C., where I have been licensed to practice law since 1989, I wanted to work in the Helena, Montana main office with Executive Director Robert T. Coulter, a long time colleague. I am the project director for the Center's Safe Women, Strong Nations project, which assists national Native women's organizations and Indian nations to end the epidemic of violence against American Indian and Alaska Native women. I also help with other work related to the realization of indigenous peoples' rights under international human rights law and improving the framework of federal laws that apply only to Indians in order to end poverty in Indian country and improve the well-being of Indian nations and people.

STEPS TAKEN AND PROPOSED TO BE TAKEN TO PASS THE EXAM

In April 2013, I passed the Multistate Professional Responsibility Examination (MPRE) on the first try. I applied to sit for the Montana Bar Examination in July 2013. To prepare for the exam, I enrolled in the Bar Bri course completing the lectures online. However, although I began studying in May, I was able to take only a few weeks off work. Coincidentally, in March 2013, I also suffered a serious injury to the tendons of my right arm and hand after a fall. The injury and resulting immobilization of my right arm and hand made writing and note taking challenging and at times impossible. Typing was difficult. I persevered in my preparation and sat for the July 2013 Montana Bar Examination and attended the Montana Law Seminar. I did

not pass. Subsequently, I met with Bar Examiner Jacqueline Lenmark to discuss my answers and obtain counsel on bar exam preparation.

My second attempt at the exam was in February 2014. I changed my preparation strategy by adding a special focus on the Multistate Bar Examination (MBE) with Multistate Edge, a commercial online preparation course targeting the multistate subjects and questions; by studying many more sample essay questions and answers included in the Bar Bri materials related to the Multistate Essay Examination (MEE); and by increasing my preparation for the Multistate Performance Test (MPT). Though I was able to take 5 weeks off work and was in good health, my husband broke his leg in January, requiring a fair amount of assistance and care as he was prohibited from weight bearing and driving for 8 weeks. Regrettably, I fell short of passing the Montana Bar Examination by just a single point. I again met with Bar Examiner Jacqueline Lenmark to discuss my performance and receive feedback from her for my bar exam preparation. She indicated that one of my MPT answers was among the higher scoring responses.

My third attempt at the bar exam was in July 2014. To intensify my practice of the multiple choice questions for the MBE, I renewed my subscription to the Multistate Edge, purchased a new subscription to Dominate the Bar, a review course also focusing on the multistate subjects. I worked on and reviewed my substantive outlines and approaches, with a particular focus on those subjects where I scored lowest on the prior exams. I also reviewed the tutorial for the Examsoft software used for typing the essay exams and became more familiar with available features. I planned for and was grateful to be able to take 6 weeks off of work to prepare for and take the exam. As suggested by Bar Examiner Lenmark, I had hoped to do some of my studying at the Supreme Court library. Unfortunately, in mid-June, I contracted a

respiratory illness and severe cough as my study period was to begin. I was quarantined by my doctor, pending the results of a test for whooping cough. The test was negative, but despite treatment with antibiotics, cough suppressants, an inhaler, and finally steroids, the cough persisted through mid-July. I was unsuccessful on the exam.

Should this Court grant my petition to take the bar exam a fourth time, my plan to improve my chances of success would include meeting with a Bar Examiner to review my answers and performance, ordering further preparation materials – MBE, MEE, and MPT questions and answers from the National Conference of Bar Examiners – and taking 8 weeks off work to intensify and hone my studies.

**GRANT OF A WAIVER OF THE BAR EXAM REQUIREMENT
IS SUPPORTED BY GOOD CAUSE AND IS IN THE PUBLIC INTEREST**

Under Section VII of the Rules, the Montana Supreme Court "may, under circumstances it deems sufficient, waive any requirements" under the Rules and "is the final authority as to whether and under what circumstances an applicant may be admitted to practice law in Montana." Though rarely, the Court has recognized some cases warranting a waiver of the examination requirement. *See, e.g., In Re Deborah DePietro*, PR 06-0422 (Feb 21, 2012); *In Re Heather H. Grahame*, PR 06-0422 (April 12, 2011); *In Re Petition of Jerome Anthony Patterson, Jr., for Admission to Active Status in the State Bar of Montana*, PR 06-0422 (Oct. 25, 2011).

It is my belief that this Petition identifies sufficient circumstances that would warrant an exception here. I believe that my long and distinguished career in the practice of law, including over two decades of active admissions to the state bars of New Mexico, Arizona, and the District of Columbia, satisfy the general purpose of professional licensing examinations to ensure basic competency. My intention now and hopefully for the remainder of my career is to work for the

Indian Law Resource Center, a nonprofit organization that provides assistance free of charge to Indian nations and other indigenous peoples throughout the Americas. Our work focuses on areas of great need such as combating violence against Native women and eradicating poverty, which also happen to be areas where affordable legal assistance most often is simply not available. There would be no risk to the general public by granting such a waiver as I have no intention of engaging in the private practice of law in Montana and the Executive Director and founder of the Indian Law Resource Center, Robert T. Coulter, with whom I work is a Montana-licensed lawyer.

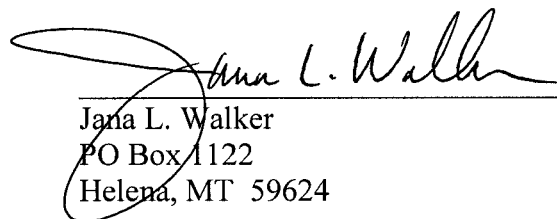
CONCLUSION

Based on the foregoing, I respectfully request that the Court grant permission for me to sit for the Montana Bar Examination a fourth time in February 2015.

Alternatively, based on the foregoing, I also respectfully request that the Court grant me a waiver of the requirement to take and pass the Montana Bar Examination. This would allow me to contribute fully to the charitable work at the Indian Law Resource Center's Helena, MT office in addition to work at its Washington, D.C. office where I am already licensed to practice.

DATED this 10th day of October 2014.

Respectfully submitted,



Jana L. Walker
PO Box 1122
Helena, MT 59624


CERTIFICATE OF SERVICE

I hereby certify that I served a true and accurate copy of the foregoing Petition by pre-paid U.S. mail and by email an electronic copy to the Bar Admissions Administrator at the State Bar of Montana as follows:

Marie Connolly, Bar Admissions Administrator
State of Montana Board of Bar Examiners
PO Box 577
Helena, MT 59624

Email: mconnolly@montanabar.org

DATED this 10th day of October 2014.



Jana L. Walker
PO Box 1122
Helena, MT 59624