
In the Matter of the Petition to Amend
Supreme Court Rule SCR 40.14(2), Relating to
the Filing of Applications for Admission, and
SCR 40.13(3)(h), Relating to the Fee for Late
Application Under the Diploma Privilege

PETITION

To: Chief Justice Shirley S. Abrahamson
Justice Ann Walsh Bradley
Justice N. Patrick Crooks
Justice David Prosser, Jr.
Justice Patience D. Roggensack
Justice Louis B. Butler
Justice Annette Kingsland Ziegler

Filed with the Clerk of Court David R. Schanker
Clerk of Supreme Court Office
110 East Main Street, Suite #215
Madison, Wisconsin 53703

The Board of Bar Examiners, by its director John E. Kosobucki, petitions the Supreme Court of Wisconsin for orders amending Supreme Court Rules 40.14(2) and 40.14(3)(h). If the Court issues this order, these sections will read as follows:

PROPOSED AMENDMENTS:

SCR 40.14 Application; fees.

~~(2) — An application is filed on the date a properly executed application and payment of the applicable fees are received at the office of the board during regular business hours.~~

(2) An application is timely filed if it, together with the applicable fees, is received at the board's offices within the time specified for filing; or if sent to the board through the United States Postal Service by first-class mail (including express or priority mail), postage prepaid, and bears a postmark, other than a commercial postage meter label, showing that the document was mailed on or before the last day for filing; or if delivered on or before the last day for filing to a third-party commercial carrier for delivery to the board within three calendar days.

(3) The following fees are payable to the board:

(h) Late fee for a character and fitness investigation under SCR 40.06(3m)
~~\$100~~ \$500

JUSTIFICATION:

Under the present rule, an application for admission to the bar is not deemed timely unless it arrives at the board's offices during regular business hours on or before the deadline day. Applicants who rely on first class mail cannot be sure their timely mailed documents will arrive in time. If they want to be sure, they must incur the greater cost of hand delivery or a courier service.

The proposed amendment, adapted from the rule for filing briefs in the United States Supreme Court, gives applicants more control over their transmissions, better assuring them that their applications will not be rejected as untimely. (By a separate petition, the board is asking the Court to make a similar change in the manner of filing CLE reports and other documents).

The second proposed amendment would affect only the small number of persons each year who do not make a timely application, but who otherwise satisfy all requirements for admission under the Diploma Privilege, SCR 40.03. In recent years, the board has often certified these applicants for admission if their applications were no more than a few days or weeks late, subject to the \$100 late fee set by SCR 40.14(3)(h). In these cases, the Board deems relegating these applicants to the bar examination process a penalty that is disproportionate to their tardiness.

However, the Board also deems the \$100 late fee set by SCR 40.14(3)(h) to be too insignificant a penalty, and therefore asks the Court to increase it to \$500. The Board makes this request to magnify the incentive for timely applications, and not with an intent to increase its revenues. Indeed, the Board hopes the increased late fee will prompt all applicants to file their applications on time.

Dated this 13th day of May 2008.

Respectfully submitted,

// Original Signed //

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