

IN THE SUPREME COURT OF FLORIDA

IN RE: AMENDMENTS TO RULE 4.13.4
OF THE RULES OF THE SUPREME COURT
RELATING TO ADMISSIONS TO THE BAR

CASE NO. SC 21-187

_____/

AMENDED COMMENTS

Honorable Justices of the Florida Supreme Court, in response to the Court's invitation for comment, the undersigned submits these comments:

The Court's intent to refine the requirements of Rule 4-13.4(a) ("the Rule") is unequivocally welcomed. The ability for non-US educated lawyers and attorneys to be able to practice law in the US is a hallmark of what has made America's history so rich and deep.

However, it is requested that the amendment be changed from "7 years" to "5 years." The high-level reasons are explained below.

1. The proposed rule is still unduly onerous on the applicant.

The 'higher order' problem that the Rule is solving is how to ensure the equivalency of someone with a US ABA-accredited law degree who is allowed to take the Florida bar exam, and someone with a non-US law degree who is not allowed to take the bar exam, without the additional requirement of the Rule.

A student with a US ABA-accredited law degree will have no experience of practical law. Only academic scholarship.

RECEIVED, 05/01/2021 07:42:29 PM, Clerk, Supreme Court

Under the Rule, a non-US lawyer must show both academic scholarship and currently 10 years of legal practice. It's clear that the non-US lawyers must have an additional hurdle to prove competency but the very proposal of reducing the requirement from 10 to 7 years acknowledges that the rule is onerous as currently drafted. And, this is despite sub-clause (d) of the Rule, where the board is "clothed with broad discretion" to determine competency. Once a number is stated, it tends to take on a life of its own. The number of years prevails over the quality of those years.

The current situation highlights this problem. The current existing rules require 10 years of work product under sub-clause (b) of the Rule but in practice the board requires 7 years of work product and proof of 10 years of law practice through work product, in a recent case before this Court. This can lead to a chaotic experience for bar applicants using this Rule and possibly for the board.

It is submitted that 5-years is a more reasonable time-frame to set as a minimum based on the board's ability to oversee the quality of those years under sub-clause (d).

2. The proposed rule can thwart worthy applicants

In the case of *In re Julius Crowne* 276 So. 2d 477, this Court commented that even recency of practice was not important since "the demonstration of practice [is] a flexible requirement. It is not designed to thwart an applicant, but rather to establish assurance of an applicant's ability to function as a lawyer."

Fixing the number of years too high is a similar flaw. For example, under the 7-year proposed rule, one could:

1. Be a member of another sophisticated US-bar e.g. New York, for twenty years
2. Work as an attorney located physically in the US for at least five years (and more)
3. Create ground-breaking law memos and advice that saved a multi-billion dollar US business and jobs during the credit crisis during those five years,
4. Receive confirmation from the US Department of Homeland Security to be regarded as equivalent to executive-level US lawyers

and still *not* be permitted to take the bar examination in the State of Florida. I know this, as that is my story.

Or, you could be a judge in New York (with a non-US law degree) who is unable to take the Florida bar exam if they have not practiced law for 7 years. Is that right?

Isn't it better to provide a meaningful minimum number of 5 years and allow the discretion of the board to supplement whether that number should increase or the applicant should provide a better work product or other relevant requirement rather than miss worthy candidates?

- 3. Without these changes, it does not solve the problem posed by this Rule, but gives rise to negative consequences to the quality and reputation of the Florida Bar.**

Since the Rule is solely targeted at people from non-US jurisdictions who have practiced US law in the US and who want to take the Florida bar exam to prove their competency in Florida, the proposed Rule will reduce the diversity of the Florida bar by restricting worthy candidates. In addition, these attorneys often want to continue their *pro bono* work with local communities, such as myself, and are unable to do so.

I therefore urge the Court to consider this further change that could help the Florida Bar to capitalize on the opportunity presented by candidates applying under this Rule while still maintaining the integrity of the Florida Bar standards for admission.

Thank you for this opportunity to provide comments. Please excuse any typos and mis-phrasing due to finding out about these proposals only recently and wishing to meet the required deadline for comments.

Respectfully submitted this day of 30th day of April, 2021.

/s/ Samantha Abeysekera

SAMANTHA ABEYSEKERA

New York Attorney,

Barrister-at-Law, England & Wales

sam@samabeysekera.com

C/O 5077 Fruitville Road,

Suite 109/139

Sarasota, Florida 34232

(941) 217-7671