IN THE COURT OF APPEALS OF MARYLAND

ADMINISTRATIVE ORDER
ON
ESTABLISHING SPECIAL AUTHORIZATION
FOR THE TEMPORARY SUPERVISED PRACTICE OF LAW

WHEREAS, on this date, by way of a separate Order, which is hereby incorporated by reference in this Order, the Court of Appeals has confirmed that the Maryland Bar Exam will be administered remotely on October 5-6, 2020; and

WHEREAS, the Court has determined that it is in the interest of justice, due to the hardship created by COVID-19 for certain law school graduates, to permit qualifying current applicants to the Maryland Bar the option to apply for a temporary special authorization to provide legal services in Maryland ("Temporary Special Authorization"), in lieu of taking the October 2020 Remote Bar Exam in Maryland; it is this 28th day of August, 2020

ORDERED, by the Court of Appeals, as follows:

1. Eligibility. To be eligible to receive Temporary Special Authorization, an applicant must:

   a. have filed a Notice of Intent to Take the Uniform Bar Examination ("UBE") in Maryland originally scheduled for July 2020, that has not been withdrawn as of August 28, 2020;

b. not have failed the Maryland General Bar Examination or the UBE in Maryland on more than two occasions;

c. submit an Application for Temporary Supervised Practice to the State Board of Law Examiners (the "Board") that is received by the Board no later than September 21, 2020 at 4:30 p.m., and that, when received by the Board, will automatically operate to withdraw the applicant's previously-filed Notice of Intent to Take the UBE in Maryland, which has been carried over to the October 2020 Remote Bar Exam;

d. demonstrate by evidence satisfactory to the Board that the applicant satisfies each of the requirements of Maryland Rules 19-201(a)(1) (pre-legal education); 19-201(a)(2) (J.D. from ABA-approved U.S. law school unless waived under Rule 19-201(b)); 19-201(a)(4) (qualifying MPRE score); 19-201(a)(5) (completion of the Maryland Law Component); and 19-201(a)(6) (establishing good moral character and fitness for admission to the Bar; i.e., being recommended for admission by the applicable Character Committee without a hearing or being approved for admission by the Court of Appeals after any hearing before the Character Committee, the Board, or the Court);

e. identify a supervising attorney qualified under Paragraph 3 below;

f. provide a Declaration of Supervising Attorney containing the information required by paragraph 3 below; and

g. read and agree to abide by the Maryland Attorneys' Rules of Professional Conduct (the "MARPC") (codified at Title 19, Chapter 300, of the Maryland Rules).

2. Notification. On December 1, 2020, or as soon thereafter that the Board finds the applicant has complied with the requirements of this Order, the Court shall notify the applicant that the applicant is eligible to be issued a Temporary Special Authorization. Each such applicant shall then take the following oath or affirmation, which shall be administered by the Supervising Attorney:

> I do solemnly (swear)(affirm) that I will at all times demean myself fairly and honorably as a person who has received Temporary Special Authorization to provide legal services in the State of Maryland; that I will bear true allegiance to the State of Maryland, and support the laws and Constitution thereof, and that I will bear true allegiance to the United States, and that I will support, protect and defend the Constitution, laws and government thereof as the supreme law of the land; any law, or ordinance of this or any state to the contrary notwithstanding.

After the applicant has taken the foregoing oath or affirmation, the applicant shall notify the Board and the Clerk of the Court of Appeals, by means adopted by the Board and Clerk of the Court, that he or she has taken such oath and affirmation. Upon receipt of such notification, the Clerk of the Court shall provide the applicant with a document evidencing the applicant's Temporary Special Authorization to provide legal services in Maryland. A copy of the Temporary Special Authorization also will be sent to the Board and to the Supervising Attorney.

3. Supervision. An applicant may receive Temporary Special Authorization only if a supervising attorney who meets the requirements of this Order has agreed to supervise

the applicant (the "Supervising Attorney"). Under no circumstances may a person who receives a Temporary Special Authorization engage in the practice of law as a solo practitioner.

a. Eligibility of Supervising Attorney. An attorney is eligible to be a Supervising Attorney if the attorney: (i) has been engaged in the active practice of law in Maryland for at least five years; (ii) is currently engaged in the active practice of law in Maryland; and (iii) is not the subject of any pending disciplinary matters in any jurisdiction at the time of the submission of the Declaration of Supervising Attorney and has not previously been suspended or disbarred in any jurisdiction.

b. Declaration of Supervising Attorney. The Supervising Attorney must expressly state in a signed Declaration that the Supervising Attorney:

(i) employs the applicant for Temporary Special Authorization or is employed by an entity by which the applicant for Temporary Special Authorization also is employed;

(ii) will assume all professional responsibility for the direct supervision for the professional work of the applicant, including the applicant's compliance with the MARPC;

(iii) will be jointly responsible to clients for whom the applicant for Temporary Special Authorization provides legal services;

(iv) will provide any necessary assistance to the applicant to ensure the protection of the clients for whom the applicant provides services,

either directly or through the services of another Maryland attorney associated with the Supervising Attorney's firm or organization (the "Designated Attorney");

(v) will review, sign and file any pleadings, briefs, and other legal documents that the applicant has prepared, and will be identified as "Supervising Attorney" in all such papers submitted to a court, administrative tribunal, or alternate dispute resolution tribunal on which the name of the applicant for Temporary Special Authorization appears;

(vi) will directly, or through the Designated Attorney, be present for court appearances as required by this Order or by order of any court or tribunal;

(vii) will limit supervision to no more than two persons who receive Temporary Special Authorization under this Order; and

(viii) will notify the Board within three business days if the Supervising Attorney has terminated supervision of the applicant or if the Supervising Attorney becomes aware that the applicant no longer meets the requirements for Temporary Special Authorization.

4. Permitted Activities and Requirements; Presence of Supervising Attorney or Designated Attorney.

a. Court, Administrative Tribunal, and Alternative Dispute Resolution Appearances. A person who receives Temporary Special Authorization may

appear in any State court, or before any State administrative tribunal or alternative dispute resolution tribunal, on behalf of any person who has consented in writing to that appearance if the Supervising Attorney has also provided written approval of that appearance. In each such case, the written consent and approval must be filed on the docket and be brought to the attention of the presiding judge or officer. In addition, the person who has Temporary Special Authorization must advise the judge or other presiding official of such Temporary Special Authorization at each appearance before a presiding official in any case.

b. Presence of Supervising Attorney or Designated Attorney. The Supervising Attorney or a Designated Attorney must be present for any hearing, trial, or other appearance by a person who receives Temporary Special Authorization before a State court, State administrative tribunal, or alternative dispute resolution tribunal, except in the following circumstances:

(i) in a civil case in the District Court of Maryland, the Circuit Courts of Maryland, including any juvenile and family divisions of the Circuit Courts, on behalf of a client other than the State or one of its political subdivisions, if the person on whose behalf the appearance is being made consents in writing to the absence of the Supervising Attorney or Designated Attorney;

(ii) on behalf of the accused in a criminal case involving no felony charges, if the person on whose behalf the appearance is being made

consents in writing to the absence of the Supervising Attorney or Designated Attorney; provided, however, the Supervising Attorney or Designated Attorney must be present during trial; or

(iii) on behalf of the State or one of its political subdivisions in any case in the District Court of Maryland or the Circuit Courts of Maryland, provided that the Supervising Attorney has provided written approval for the person with Temporary Special Authorization to appear in such case without the presence of the Supervising or Designated Attorney.

c. Notwithstanding anything in this paragraph, a State court, State administrative tribunal, or alternative dispute resolution tribunal may at any time and in any proceeding require the Supervising Attorney or Designated Attorney to be present during any appearance by a person who has received Temporary Special Authorization.

d. Other Client Representation Activities. Under the supervision, and with the consent, of the Supervising Attorney or Designated Attorney, but outside his or her presence, a person who has Temporary Special Authorization may:

(i) prepare pleadings and other documents to be filed in any matter in which the person who has Temporary Special Authorization is eligible to appear, but such pleadings or documents must be signed by the Supervising Attorney or Designated Attorney; and

(ii) give legal advice and perform other appropriate legal services.

5. Identification of Temporary Special Authorization on Documents and Communications. Any communication made by a person who receives Temporary Special Authorization, in performing the permitted activities above, other than internal communications, must include the designation "Specially Authorized for Temporary Practice."

6. Privileged and Protected Communications. A person who receives Temporary Special Authorization shall be considered an attorney for the purposes of all statutes and rules that relate to the attorney-client privilege, the attorney work-product doctrine, or any analogous rules of law, procedure, or evidence.

7. Compensation. A person with Temporary Special Authorization who renders legal services authorized by this Order shall not request or accept any compensation from the person or entity for whom the services are rendered. A person with Temporary Special Authorization may be compensated as an employee of a firm or other organization, however, and such firm or organization may request compensation for services provided by a person with Temporary Special Authorization, consistent with other law.

8. Duty of Candor. For so long as a person has Temporary Special Authorization, the person shall comply with all applicable provisions of the MARPC. In addition, a person who receives Temporary Special Authorization must within three business days advise the Board in writing of any change in circumstances that renders the person ineligible for Temporary Special Authorization.

9. Termination of Temporary Special Authorization. The special authorization to engage in supervised practice under this Order may be terminated by the Board or the Court

of Appeals at any time without notice or hearing and without any showing of cause, and also expires without action by the Board or the Court of Appeals upon any of the following circumstances:

a. a person who has received Temporary Special Authorization is admitted to the Maryland Bar;

b. a person who has received Temporary Special Authorization withdraws his or her designation as a person having such Temporary Special Authorization in writing to the Board;

c. a person who has received Temporary Special Authorization ceases to meet the eligibility requirements of this Order;

d. a person who has received Temporary Special Authorization fails to abide by the requirements of this Order;

e. the Supervising Attorney withdraws as the person's Supervising Attorney, unless a substitute Supervising Attorney meeting the requirements of this Order submits a Declaration of Supervising Attorney under paragraph 3 above;

f. a person who has received Temporary Special Authorization does not sit for all sessions of the February 2022 UBE in Maryland or does not file a Notice of Intent to Transfer a Qualifying UBE Score to Maryland pursuant to Maryland Rule 19-207 or a Petition for Admission Without Examination pursuant to Maryland Rule 19-216 prior to the first day of the February 2022

UBE in Maryland, unless extended by the Board for good cause to no later than the July 2022 UBE in Maryland; or

g. the Board notifies the person who has Temporary Special Authorization that the person did not achieve a passing score on a Maryland bar examination for which the person sat after receiving Temporary Special Authorization.

Upon any of these instances of termination, the Board shall issue a written Notice of Termination of Temporary Special Authorization to the person who received Temporary Special Authorization, with a copy sent to the Clerk of the Court of Appeals and the Supervising Attorney.

10. Disciplinary Concerns. The procedures otherwise provided by law or court rule governing the discipline of attorneys shall not be applicable to the termination of Temporary Special Authorization pursuant to this Order. Determinations regarding the granting and termination of Temporary Special Authorization shall be made by the Board and approved by the Court of Appeals.

11. No Conferral of Rights or Presumptions; Referring to Temporary Special Authorization. Temporary Special Authorization is not admission to the Maryland Bar. Applicants who are granted Temporary Special Authorization under this Order shall not be deemed to have been admitted to the Maryland Bar. Temporary Special Authorization confers no rights or presumptions bearing on the applicant's pending application for admission as a licensed attorney, and in no way restricts the Board's or the Court of Appeals' authority to determine an applicant's admission to the practice of law in Maryland. A person who receives Temporary Special Authorization shall not hold himself

or herself out to the public or to any individual as a Maryland licensed attorney. Nothing in this Order prohibits a person who meets, or expects to meet, the requirements of Paragraphs 1.a. – 1.d. of this Order from describing his or her eligibility for Temporary Special Authorization, pursuant to this Order, on a resume, biographical summary, or application seeking employment, as long as the description is not false, deceptive, or misleading.

/s/ Mary Ellen Barbera
Chief Judge

/s/ Robert N. McDonald

/s/ Shirley M. Watts

/s/ Michele D. Hotten

/s/Joseph M. Getty

/s/ Brynja M. Booth

/s/ Jonathan Biran

Filed: August 28, 2020

/s/ Suzanne C. Johnson
Clerk
Court of Appeals of Maryland

Pursuant to Maryland Uniform Electronic Legal Materials Act
(§§ 10-1601 et seq. of the State Government Article) this document
is authentic.

Suzanne Johnson
2020-08-28 14:17-04:00

Suzanne C. Johnson, Clerk