FILED

MAY 14 2020

OFFICE OF THE CLERK
SUPREME COURT
COURT OF APPEALS

Serial: **231755**

IN THE SUPREME COURT OF MISSISSIPPI

No. 2020-AD-00001-SCT

IN RE: EMERGENCY ORDER RELATED TO CORONAVIRUS (COVID-19)

EMERGENCY ADMINISTRATIVE ORDER-12

In prior Emergency Administrative Orders, the Court has recognized that the national and state emergencies created by Coronavirus (COVID-19) require appropriate measures to protect the health and safety of the citizens of this State. The Court continues to monitor the COVID-19 pandemic and enter Orders as empirical data and changing circumstances dictate.

Before the Court is a letter motion filed by The Mississippi Board of Bar Admissions (Board) which recommends that the July 2020 Bar Examination "proceed[,]" subject to "enumerated conditions . . . ."[1] The Board's recommendation is based upon "a strong desire on the part of the applicants to proceed with the Bar Exam at the earliest date possible[,]" coupled with "(1) regular communication with the National Conference of Bar Examiners and other jurisdictions intending to administer the exam in July, (2) consideration of State Executive Order No. 1480, (3) Mississippi Supreme Court COVID-19 Related Court Guest Safety Protocol and other special administrative orders of the Court and (4) current CDC

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[1]Such "enumerated conditions" include comprehensive protocols regarding social distancing, sanitization of the designated facility (the Jackson Convention Center), the provision of "masks and hand sanitizer for all examinees and proctors[,]" and on-site medical personnel "to screen all examinees, including taking temperatures as they enter the test site[;]" all to the end of preventing the transmission of COVID-19.

Notably, the Board opines that "[o]ur usual stable of proctors are all in high-risk categories[,]" and proposes that "[y]oung lawyers" be "recruited to serve as proctors and credited with pro bono credit hours for doing so."

guidance . . . ." The Board further notes "that implementation of these protocols and the venue change will add considerably to the cost of giving the examination[,]" and "suggest[s] that the Court may wish to consider application to the Governor or legislature to cover increased exam costs . . . ."

After due consideration, the Supreme Court and the Chief Justice, in his capacity as chief administrative officer of all courts in the state, find that the Board's letter motion, a copy of which is attached to this Order, should be granted. The July 2020 Bar Examination should proceed, subject to the "enumerated conditions" provided in the Board's letter motion.

IT IS THEREFORE ORDERED:

1. The letter motion filed by The Mississippi Board of Bar Admissions is hereby granted. The July 2020 Bar Examination shall proceed, subject to "enumerated conditions" provided in the Board's letter motion, a copy of which is attached to this Order.

2. A copy of this Emergency Administrative Order-12 shall be furnished to the Governor and Mississippi Legislature, along with a request that the additional expenses related to conducting the July 2020 Bar Examination be considered with earlier judiciary requests related to the allocation of funds received pursuant to the Coronavirus, Aid, Relief and Economic Security (CARES) Act.

3. It is the Judiciary's responsibility to ensure constitutional rights are protected during this national emergency. This Order may be modified, as circumstances may dictate.

SO ORDERED, this the 14 day of May, 2020.

MICHAEL K. RANDOLPH,
CHIEF JUSTICE

MISSISSIPPI BOARD OF BAR ADMISSIONS

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Gartin Justice Building
450 High Street
Suite 2027
Jackson, Mississippi 39201

May 12, 2020

Dear Justice King:

At present, there are approximately 160 persons registered to take the July 2020 exam. After polling applicants and speaking with the Deans of both law schools, we have determined that there is a strong desire on the part of applicants to proceed with the Bar Exam at the earliest date possible. Given this strong desire, along with (1) regular communication with the National Conference of Bar Examiners and other jurisdictions intending to administer the exam in July, (2) consideration of State Executive Order No. 1480, (3) Mississippi Supreme Court COVID-19 Related Court Guest Safety Protocol and other special administrative orders of the Court and (4) current CDC guidance, the Board of Bar Admissions recommends to the Court that the July 2020 Bar Examination proceed under the following enumerated conditions:

1. The exam is administered at the Jackson Convention Center. This venue allows for the adequate spacing of individuals before, during, and after the exam. (See photos attached as Exhibit "A".)

- The Convention Center will provide deep cleaning and sanitization before each exam and at the end of the day each day.

- The Convention Center will also provide two security guards to assist with physical distancing and general enforcement of all sanitization guidelines (discussed further below).

2. Utilization of assigned seating, each applicant seated 6 feet from all other persons, with one examinee per table. Provide examinees with a flowchart showing them the proper route(s) to take to and from their seats during ingress, egress, and bathroom breaks.

3. Young lawyers are recruited to serve as proctors and credited with pro bono credit hours for doing so. (Our usual stable of proctors are all in high-risk categories and many are not comfortable

giving/reading instructions to the applicants. We need proctors who can do this, and we feel that young lawyers are the best and safest option.)

4. All examinees, proctors, etc. sign a hold-harmless agreement for protection of the Court and the Board. (See Hold-harmless attached as Exhibit "B".)

5. Enumerate all physical distancing, masking, hand washing, sanitization, etc. requirements and have each examinee sign an agreement pledging to comply. (See COVID Code of Conduct attached as Exhibit "C".)

6. Hire 4 RNs or LPNs (one for roughly every 40 test-takers) to screen all examinees, including taking temperatures as they enter the test site and generally assist with any health issues that may arise during administration.

- This will require the purchase of 4 infrared thermometers for use. In addition, the Board will provide masks and hand sanitizer for all examinees and proctors. (The venue will provide extra garbage bins for proper disposal of masks and gloves.)

7. Allow examinees to bring their own bottled water and hand sanitizer (in clear containers only).

8. Provide at least 12 hand sanitizer stations throughout the venue.

9. Require proctors to wear gloves when handling test material.

We would note that implementation of these protocols and the venue change will add considerably to the cost of giving the examination. The Board is able to absorb these costs during this administration; but going forward, it may be unable to do so as the number of applicants has been following a downward trajectory over recent administrations. This trend is expected to continue as legal jobs in Mississippi have become increasingly hard to come by and students increasingly opt to take the bar exam in other jurisdictions. The Board simply wants to make the Court aware of the financial stress that these changes will cause to the Board's funding and to suggest that the Court may wish to consider application to the Governor or legislature to cover increased exam costs in the near future.

The above recommendations reflect what we view to be the best practices for administration of the bar examination at this time should the Court wish to proceed with the exam in July.

Should the Court wish to postpone the July exam, NCBE will offer two additional exam dates in the fall: September 9-10 and September 30-October 1, 2020. It would be the Board's recommendation that the above protocols be appropriately adapted to the changing conditions surrounding COVID-19.

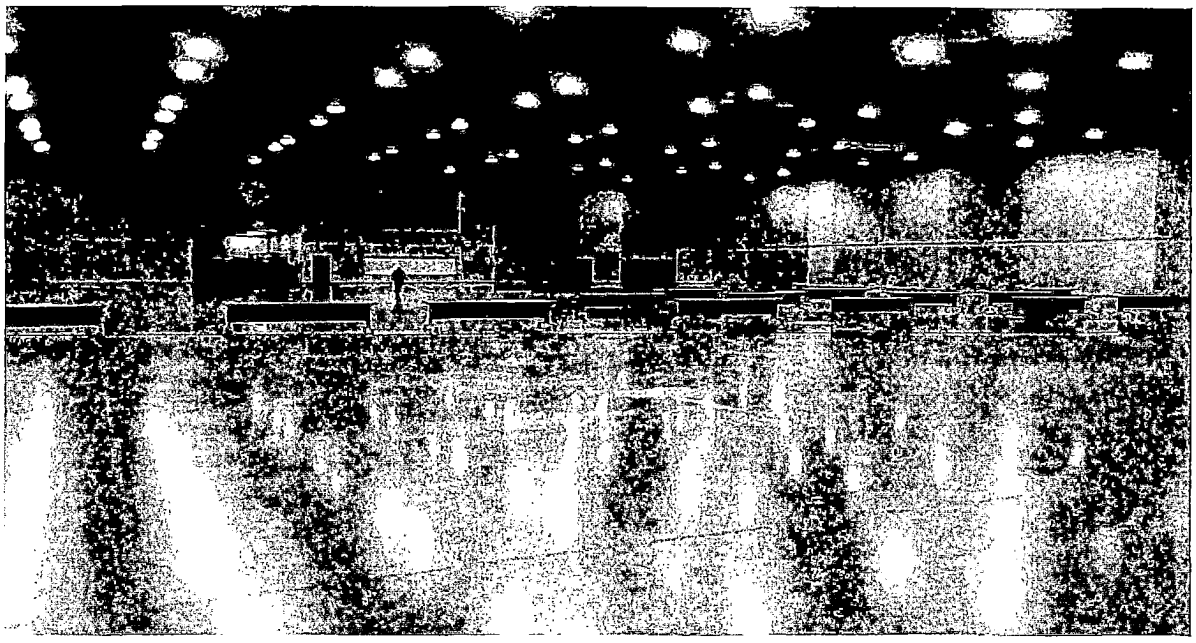
We look forward to hearing the Court's decision at its earliest convenience. Please let us know if you feel that you need further information from us.

Sincerely,

Marcie F. Baria, Board Chair
Mississippi Board of Bar Admissions

PHOTOS OF JACKSON CONVENTION CENTER COMPLEX

JACKSON CONVENTION CENTER EXHIBIT HALL B TO SEAT 150 LAPTOP EXAMINEES



SINGLE ROOM FOR ACCOMMODATION EXAMINEES (WE WILL NEED 5 SINGLE ROOMS)

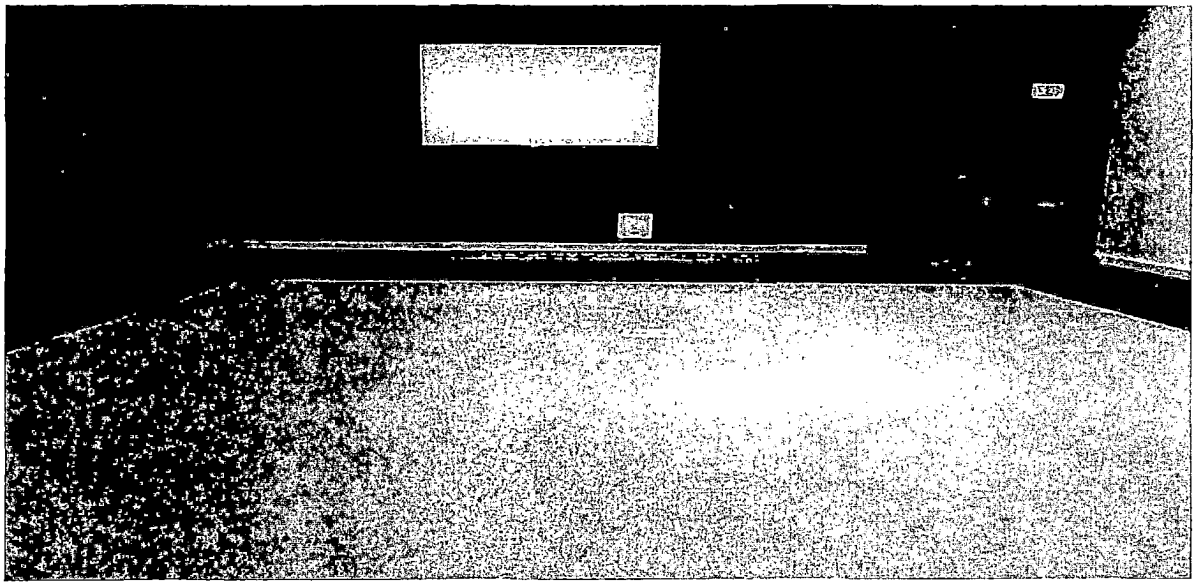
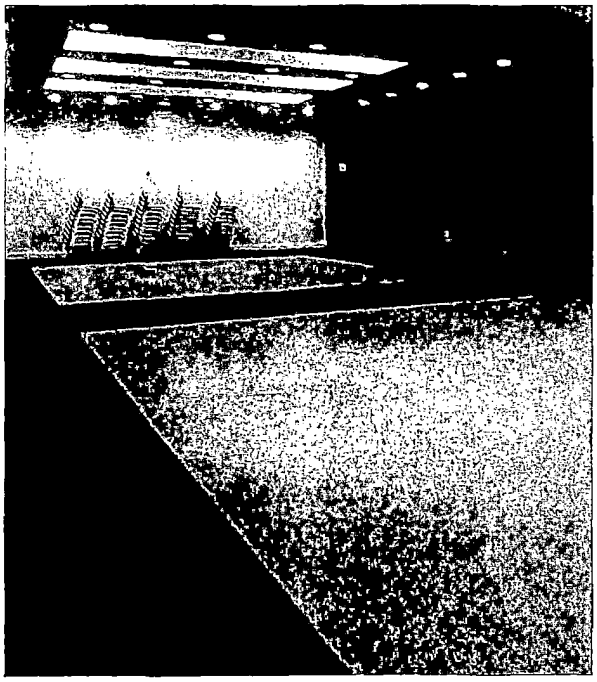


EXHIBIT A

LOBBY AREA TO FORM LINES FOR REGISTRATION

DOUBLE ROOM FOR HAND WRITERS (WE WILL NEED 2 DOUBLE ROOMS)



MISSISSIPPI BOARD OF BAR ADMISSIONS
JULY 2020 COVID-19 WAIVER OF LIABILITY AND HOLD HARMLESS AGREEMENT

In consideration for receiving permission to sit for the July 2020 Mississippi Bar Exam, I hereby acknowledge, agree and represent as follows:

I am aware of the novel coronavirus ("COVID-19") worldwide pandemic and that the Centers for Disease Control and Prevention ("CDC") considers COVID-19 to be highly contagious and spread mainly from person-to-person through respiratory droplets produced when an infected person coughs or sneezes. I am aware that millions of COVID-19 infections have been confirmed throughout the United States, including several thousands of cases in Mississippi and the surrounding states. I acknowledge and understand that that the circumstances regarding COVID-19 are changing from day to day and that, accordingly, the CDC guidelines are regularly modified and updated and I accept full responsibility for familiarizing myself with the most recent updates.

I fully understand and appreciate both the known and potential dangers of utilizing the facilities and services of the Mississippi Board of Bar Admissions in the administration of the July 2020 Bar Exam and acknowledge that my use thereof may, despite the MBBA's reasonable efforts to mitigate such dangers, result in exposure to COVID-19, which could result in quarantine requirements, serious illness, disability, and/or death.

I hereby RELEASE, WAIVE, DISCHARGE, INDEMNIFY, HOLD HARMLESS AND COVENANT NOT TO SUE the Mississippi Board of Bar Admissions, the Mississippi Supreme Court, their directors, officers, employees, volunteers and agents from and against any and all liability to the undersigned and all personal representatives, assigns, heirs, and next of kin of the undersigned for any loss or damage, and any claim or demands on account of any property damage or any injury to, or any illness or the death of, the undersigned, including without limitation as a result of exposure to or infection with COVID-19, whether caused by the negligence, active or passive, of the MBBA or otherwise while the undersigned is participating in the July 2020 Bar Exam.

I AM AWARE THAT BY AGREEING TO THIS AGREEMENT I AM GIVING UP VALUABLE LEGAL RIGHTS, INCLUDING THE RIGHT TO RECOVER DAMAGES FROM THE MBBA AND THE MISSISSIPPI

EXHIBIT B

SUPREME COURT IN CASE OF ILLNESS, INJURY, DEATH OR PROPERTY LOSS OR DAMAGE, INCLUDING, FOR THE AVOIDANCE OF DOUBT AND WITHOUT LIMITATION, EXPOSURE TO COVID-19 AT ANY FACILITY WHERE THE JULY 2020 MISSISSIPPI BAR EXAM IS BEING ADMINISTERED AND ANY ILLNESS, INJURY OR DEATH RESULTING THEREFROM. I UNDERSTAND THAT THIS DOCUMENT IS A PROMISE NOT TO SUE AND A RELEASE OF AND INDEMNIFICATION FOR ALL CLAIMS.

This Agreement and the provisions contained herein shall be construed, interpreted and controlled according to the laws of the State of Mississippi, and I expressly agree that the foregoing WAIVER OF LIABILITY AND HOLD HARMLESS AGREEMENT is intended to be as broad and inclusive as is permitted by the laws of the State of Mississippi and that if any portion thereof is held invalid, it is agreed that the balance shall, notwithstanding, continue in full legal force and effect.

BY SIGNING THIS AGREEMENT, I ACKNOWLEDGE AND REPRESENT THAT I have read the foregoing Wavier of Liability and Hold Harmless Agreement, understand it and sign it voluntarily as my own free act and deed; no oral representations, statements, or inducements, apart from the foregoing written agreement, have been made; I am at least eighteen (18) years of age and fully competent; and I execute this Agreement for full, adequate and complete consideration fully intending to be bound by same.

IN WITNESS WHEREOF, I have read, understood and signed this Waiver and Agreement on this _____ day of _____, 2020.

SIGNATURE:_____

PRINT NAME:_____

DATE:_____

MISSISSIPPI BOARD OF BAR ADMISSIONS
JULY 2020 MISSISSIPPI BAR EXAM CODE OF CONDUCT DECLARATION

I _____ hereby declare the following:
Applicant's Name

- I will not sit for the July 2020 Mississippi Bar Exam if I have tested positive for COVID-19 on or after July 10, 2020.
- I will not sit for the July 2020 Mississippi Bar Exam if I have been asked to self-quarantine by a doctor, health agency or employer on or after July 10, 2020.
- I have not been in close contact with anyone diagnosed with COVID-19 on or after July 10, 2020.
- I will consent to having my temperate taken, and understand that I cannot sit for the July 2020 Mississippi Bar Exam if my temperature is above 100° or higher.
- I will consent to leaving the exam site immediately if I become symptomatic while on the exam site or my temperature is 100° or higher.
- I will follow the exam day rules and regulations set by the Mississippi Board of Bar Admissions, including wearing a mask and using hand sanitizer when instructed to do so.
- I will follow all instructions given to me by exam proctors.
- I will comply with physical distancing guidelines and maintain a distance of six feet from others.
- I acknowledge that taking the July 2020 Mississippi Bar Exam while knowingly violating COVID-19 related policy, procedure or protocol exhibits disregard for the rights, safety and welfare of others, and that such disregard may demonstrate lack of good judgment and/or moral character.

IN SIGNING THIS DECLARATION, I ACKNOWLEDGE AND REPRESENT THAT I have fully read the foregoing Code of Conduct Declaration, understand it and sign it voluntarily as my own free act and deed. I further acknowledge that any violation of this declaration will be reported to the Mississippi Board of Bar Admissions Committee on Character and Fitness.

Signature:_____

Print Name:_____

Date: _____

EXHIBIT C