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IN THE SUPREME COURT OF THE STATE OF UTAH

IN RE: UTAH STATE BAR Petitioner.	))))))))	PETITION TO REFINE DEFINITION OF LAWYERS "ACTIVE UNDER 3" LICENSING STATUS

The UTAH STATE BAR ("Bar") by and through its General Counsel files this Petition to Amend Rule 14-203(a)(2) in the Bar's Bylaws to Clarify the Definition of "Active Under 3" Licensing Status. The Supreme Court has previously approved various Bar licensing categories (more commonly referred to as "statuses") consisting of "active", "active under 3", "active emeritus", "inactive emeritus", and the like. Each of these categories is defined in Bar rules. Rule 14-203 (Licensing Categories) in the Bar's Bylaws currently reads, in pertinent part, as follows:

> Rule 14-203. Licensing Categories.
> (a) Lawyers licensing by the Bar shall be divided into the following licensing categories:
> (a)(2) Active under three. Active under three lawyers are those persons who took the student Bar Examination as defined in Rule 14-710 and were admitted not more than three licensing cycles ago.

A copy of Rule 14-203 is attached as Exhibit "1". The definition of "active under 3" has come under some questioning during the past few years and the Bar would like to have a more definite interpretation.

The Supreme Court previously authorized the Bar to charge a reduced licensing fee to newly admitted lawyers who have been in practice for under 3 years. The intention was to lessen the initial financial burden of those new lawyers beginning their practice of law.[1] By longstanding policy, the Bar has interpreted the definition to mean "new lawyers practicing law in *Utah* for under 3 years." With the increasing numbers of lawyers admitted in Utah from other jurisdictions (primarily due to the adoption of a reciprocity rule[2] which more readily allows lawyers from other jurisdictions to be admitted in Utah), however, this interpretation is periodically called into question, mainly by lawyers who have practiced a number of years outside Utah. These lawyers argue from time to time that they should be entitled to the reduced license fee because they qualify as not having engaged in the practice of law in *Utah* for 3 years even though they have practiced a minimum of five (or more) years in another state.

In order to reduce ambiguity and expressly state that a reduced licensing fee should only apply to *new* lawyers struggling to re-pay student loans and establish a viable practice, the Bar proposes that Rule 14-203(a)(2) be amended as follows:

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[1] The current reduced licensing fee for "active under 3" lawyers is $190; otherwise it is $350 for those who elect active status.

[2] Rule 14-705 (Admission on motion) reads in pertinent part as follows: (a) Reciprocal admission. An admission on motion applicant may be admitted to the practice of law if the applicant has been admitted to the practice of law before the highest court of a sister state or United States territory or the District of Columbia where admission by motion is authorized and the applicant meets all other requirements of this

(a)(2) Active under three. Active under three lawyers are those persons who took the student Bar Examination as defined in Rule 14-710 and ~~were admitted not more than three licensing cycles ago~~ have not been admitted to practice for more than three years in any jurisdiction.

A copy of the proposed revised rule is attached as Exhibit "2".

For the reasons outlined above, the Bar respectfully requests that the Court approve the proposed amendment.

Dated this ____ day of March, 2009.

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Katherine A. Fox
Utah State Bar General Counsel

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rule. The burden of proof is on the applicant to establish by clear and convincing evidence that he or she meets each of the following requirements…