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IN THE SUPREME COURT OF THE STATE OF UTAH

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IN RE:	)	
	)	
UTAH STATE BAR	)	PETITION TO ESTABLISH
	)	ONLINE BAR ELECTIONS
	)	BY AMENDING RULES
Petitioner.	)	14-103, 14-205 and 14-206
	)	

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THE UTAH STATE BAR ("Bar") by and through its General Counsel hereby files this Petition to Establish Online Bar Elections for the offices of President-elect and Commissioner. Currently, the Bar's Rules for Integration and Management (Rule 14-103) and the Bylaws (Rules 14-205 and 14-206) provide that Bar elections be conducted by mail. As the various costs associated with a U.S. postal service based process continue to increase, we believe the time has come to conduct our elections online electronically. By moving to a annual online election, the Bar can cut costs by at least \$10,000 while ensuring that the process continues to afford all qualified lawyers an opportunity to cast a vote confidentially. On March 12, 2009, at a regularly scheduled meeting, the Board of Bar Commissioners approved replacing the current balloting system conducted by mail with an internet based electronic election.

Every year the Bar conducts elections in the spring for the office of President-elect and open Commissioner seats.<sup>1</sup> In accordance with our current governing rules, we print ballots and mail them to lawyers who in turn mail them back to us. As with most other organizations in these challenging economic times, the Bar has been reviewing its operations, income, programs and expenditures. We have ascertained that the existing election process takes approximately \$10,000 to administer in hard costs consisting mostly of postage and printing.<sup>2</sup> Staff time (soft costs) are not included in this estimate. That expenditure will only grow larger as the price of mailing and other associated costs continue to increase.

As other Bar-related groups (such as the Young Lawyers Division with nearly 2,000 members) successfully conduct online elections (or surveys) with the Bar's technical assistance, we have learned how little an electronic process costs compared to the traditional labor intensive procedure now in place. Moreover, an online voting process is faster than paper balloting and guarantees immediate accuracy.

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<sup>1</sup> We hope that the ease and convenience of the new email based voting system will increase participation. Although approximately 7,500 lawyers are eligible to vote, only 2,748 lawyers voted in the 2008-2009 election and only 2,285 lawyers voted just recently for the 2009-2010 election.

<sup>2</sup> As currently administered, the election process requires different ballots (President-elect and Commissioner(s)) to be printed along with special printed mailing envelopes, special printed enclosure envelopes, and special printed separate return envelopes. A staff member (typically the Bar's Executive Secretary) must create a spread sheet so that the attorney names appearing on the mailing envelope are checked off along with the date the ballot is returned. That way, we know who has returned a timely ballot but not how that lawyer has voted. The mailing envelope is then slit open and the sealed enclosed envelopes containing the marked ballots are put in separate batches of 50. (The sealed envelopes contain neither the lawyer's name nor his or her Bar number.) On the day the ballots are counted, they are removed from the sealed enclosure envelopes by two or more staff members working together and thereafter, tallied. The tallying phase (one reader and two counters who must agree) requires 15-20 staff members over three or four hours. Candidates are then notified of the results.

As approved by the Commission, the proposed plan is to notify all lawyers via the *Bar Journal* and the monthly e-Bulletin that we are largely moving from traditional paper ballots to a secure and confidential online voting process. We would subsequently notify lawyers of the upcoming election and instruct them how to access secure online voting.<sup>3</sup> We realize that for a variety of reasons, some lawyers do not use or even have email and thus, cannot report that information to the Bar for use in the online election. The *Bar Journal* notice and the monthly e-Bulletin will inform lawyers that for those individuals, the Bar will mail traditional paper ballots upon request.

#### PROPOSED RULE AMENDMENTS

Several revisions are needed to the Rules for Integration and Management ("RIM") and Bylaws to move from paper balloting to online elections. A redlined copy of Rule 14-103 (Organization and Management of the Bar) sections (f) and (g) 2) in the Rules for Integration and Management is attached as Exhibit "1" reflecting the proposed changes. Redlined copies of Rule 14-206 (Officers) sections (b) (4), (b) (4) (A) and (b) (4) (B) and Rule 14-205 (Board) sections (h) (1), (h) (2) and (h) (3) in the Bylaws are attached respectively as Exhibit "2" and Exhibit "3." Copies of the three "clean" rules are attached as Exhibit "4."

#### CONCLUSION

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<sup>3</sup> The Bar filed a petition on March 10, 2009, asking the Court to make email address disclosure required as part of the annual licensing form. The majority of lawyers already provide this information, but we would like to more fully maximize the number. If approved by the Court, the new email address requirement would most likely be effective November 1, 2009, in time for the April/May 2010 election.

For the reasons discussed above, the Bar respectfully requests the Court to approve online electronic Bar elections to become effective for the 2010 election cycle.

Dated this \_\_\_\_ day of May, 2009.

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Katherine A. Fox  
Utah State Bar General Counsel