

**CASE NO. S18Z0774**  
**IN THE SUPREME COURT**  
**OF THE STATE OF GEORGIA**

\_\_\_\_\_  
**IN THE MATTER**  
**OF HARRIET O'NEAL**  
\_\_\_\_\_

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**BRIEF OF AMICUS CURIAE AMERICAN BAR ASSOCIATION**

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## TABLE OF CONTENTS

	Page
I. STATEMENT OF INTEREST .....	1
II. DISCUSSION.....	4
A. Waiver Policies Like Georgia’s Are Essential To Accommodate The Legal Careers Of Military Spouses.....	4
1. Military Spouse Attorneys Face Unique Professional Challenges And Financial Insecurity Due To Forced Relocation .....	5
2. The Insecurity That Military Spouses Endure Results In Unemployment, Underemployment, And Unequal Pay .....	9
3. The Federal And State Governments Have Taken Steps To Promote Our Military Families .....	11
4. The ABA Adopted Resolution 108 Because Appropriate Accommodations For Attorney Military Spouses Benefit The Legal Community And The Military.....	13
5. The Supreme Court of Georgia Adopted A Waiver Policy In 2016 To Accommodate Military Spouse Attorneys.....	16
B. The Board Denied Petitioner’s Application Without Explanation, Thus Leaving The Court No Basis To Evaluate The Implementation Of The Waiver Policy And Potentially Depriving Petitioner Of Due Process .....	18
1. The Board Is Required To Implement The Waiver Policy, And Should Construe It Liberally To Effectuate Its Intended Accommodation.....	19
2. Petitioner Presented Evidence That She Claims Makes Her Eligible And Entitled To Admission Under The Waiver Policy.....	21
3. Because The Board Denied Petitioner’s Application Without Any Explanation, There Is No Basis To Evaluate The Board’s Construction Or Implementation Of The Waiver Policy.....	23
4. The Board’s Failure To Provide an Explanation for Denying Petitioner’s Application Also Raises Due Process Concerns .....	24

III. CONCLUSION.....27

**TABLE OF AUTHORITIES**

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## I. STATEMENT OF INTEREST

The American Bar Association (the “ABA”) is one of the largest voluntary professional membership organizations and the leading organization of legal professionals in the United States. Its more than 400,000 members come from all fifty States, the District of Columbia, and the United States territories, including attorneys in law firms, corporations, nonprofit organizations, and local, state, and federal governments. Many ABA members have served or are serving in the United States military, or have spouses who have served or are serving right now. Members also include judges, legislators, law professors, law students, and non-lawyer associates in related fields.<sup>1</sup> The ABA has an interest in ensuring that all aspiring and practicing lawyers are offered a fair opportunity to qualify to practice law in each state and American territory.

After careful study and analysis, in February of 2012<sup>2</sup> the ABA enacted Resolution 108, which advocates for the enactment of state bar admission policies

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<sup>1</sup> Neither this brief nor the decision to file it should be interpreted to reflect the views of any judicial member of the ABA. No member of the Judicial Division Council participated in the adoption or endorsement of the positions in this brief, nor was the brief circulated to any member of the Judicial Division Council before filing.

<sup>2</sup> The control and administration of the ABA are vested in the House of Delegates, the policy-making body of the ABA. The House of Delegates meets twice a year. At each meeting, the House considers and adopts new policy resolutions on a broad range of issues related to the legal profession. Once adopted, the resolutions become official ABA policy.

designed to mitigate the unique geographic and economic hardships facing military spouse practitioners forced to relocate across state lines. Resolution 108 provides:

RESOLVED, That the American Bar Association urges state and territorial bar admission authorities to adopt rules, regulations, and procedures that accommodate the unique needs of military spouse attorneys who move frequently in support of the nation's defense, including but not limited to:

1. Enacting "admission by endorsement" for military spouse attorneys, whereby a military spouse attorney holding an active license to practice law in at least one state, territory or the District of Columbia, in good standing in all jurisdictions where admitted, and who possesses the requisite character and fitness and meets the educational standards required for admission would be admitted without examination to the practice of law in another jurisdiction, while the applicant:

a. demonstrates presence in that jurisdiction due to a spouse's military service;

b. establishes that he or she is not currently subject to a lawyer discipline or the subject of a pending disciplinary matter in any jurisdiction;

c. pays any applicable annual client protection fund assessment; and d. complies with all other ethical, legal and continuing legal education obligations;

2. Reviewing current bar application and admission procedures to ensure that they are not unduly burdensome to military spouse attorneys and that those applications are handled promptly;

3. Encouraging mentorship programs to connect military spouse attorneys with local members of the bar; and

4. Offering reduced bar application and membership fees to military spouse attorneys who are new to the jurisdiction or who no longer reside in the jurisdiction but wish to retain bar membership.<sup>3</sup>

Resolution 108 encourages state and territorial bar admission authorities to adopt accommodating rules to ensure that military spouse practitioners can continue to practice law when relocating to a new jurisdiction because of the service member spouse's military orders, without being unduly hampered by state bar admission standards that would likely make it impossible for them to do so. Such policies are intended to help provide military families with economic security, reduce unemployment rates amongst military spouses, keep military families together through constant relocations and deployments and provide clients with dedicated counsel who have unique skills thanks to their experiences as military spouses. The Supreme Court of Georgia adopted one such policy, but its implementation with respect to Petitioner raises concerns that the Georgia Board of Bar Examiners is undermining its intended purpose, as well as violating fundamental constitutional principles by not providing Petitioner with the reason for denying her request for admission by waiver. Because of the ABA's role researching the challenges facing

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<sup>3</sup> American Bar Association, Resolution and Report in Support of Resolution 108, Resolution at 1 (Feb. 2012), [http://www.americanbar.org/content/dam/aba/administrative/house\\_of\\_delegates/resolutions/2012\\_hod\\_midyear\\_meeting\\_108.doc](http://www.americanbar.org/content/dam/aba/administrative/house_of_delegates/resolutions/2012_hod_midyear_meeting_108.doc) (Resolution and Report in Support of Resolution 108 is attached as Ex. 1).

military spouse practitioners, and developing the waiver policy at issue in this case, the ABA respectfully submits this brief to inform the Court of its concerns.

## II. DISCUSSION

### A. Waiver Policies Like Georgia's Are Essential To Accommodate The Legal Careers Of Military Spouses

Resolution 108 reflects the ABA's policy in support of military spouses, nearly 92% of whom are women.<sup>4</sup> The Resolution also reflects the agreement that protecting and supporting military families promotes our national security by making it easier for the best and brightest to serve our nation's defense.<sup>5</sup> To arrive at the policy behind Resolution 108, the ABA House of Delegates reviewed the unique challenges faced by military families, our nation's prior initiatives to support military families, and the many benefits to our communities from enabling the participation of military spouses in the legal profession.

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<sup>4</sup> Department of Defense, *2016 Demographics Profile of the Military Community* 130, <http://download.militaryonesource.mil/12038/MOS/Reports/2016-Demographics-Report.pdf> (reporting that "approximately 92% (91.9%) of the spouses of Active Duty members are female"). Because 92% of military spouses are women, we use "she" and "her" throughout this brief.

<sup>5</sup> See generally Molly Clever & David R. Segal, *The Demographics of Military Children and Families*, 23 *The Future of Children*, no. 2, Fall 2013, at 14, <https://pdfs.semanticscholar.org/c567/b17bc58e83e93e68e28f1cfe270473593a48.pdf> (quoting President Obama: "the care and support of military families is a top national security policy priority").

**1. *Military Spouse Attorneys Face Unique Professional Challenges And Financial Insecurity Due To Forced Relocation***

Military families do not choose the location of their jobs or assignments.<sup>6</sup> National security dictates that military families move based upon the needs of the service.<sup>7</sup> Service members may face criminal penalties or other penalties under the Uniform Code of Military Justice—including jail, loss of rank, and dishonorable discharge—if they fail to report to a duty station as ordered.<sup>8</sup> These frequent moves result in geographic insecurity for military spouses, as well as substantial financial insecurity for the military family.

The Ohio Women’s Bar Association documented this while supporting Ohio’s bar admission waiver for military spouses:

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<sup>6</sup> See generally Nelson Lim, Daniela Golinelli & Michelle Cho, RAND Corporation, “*Working Around the Military*” Revisited: Spouse Employment in the 2000 Census Data 4 (2007), [www.rand.org/pubs/monographs/2007/RAND\\_MG566.pdf](http://www.rand.org/pubs/monographs/2007/RAND_MG566.pdf) (“[U]nlike civilian couples, who can make relocation decisions considering advantages and disadvantages for all family members, military couples must move according to the timing and placement of the service members’ new assignment.”) (*hereinafter* RAND 2007); *id.* at 23 (only about 10 percent of military wives had stayed in one location as compared with more than half of civilian wives in a five-year span).

<sup>7</sup> On average, active duty spouses thirty years old or younger move every thirty-three months due to the service member’s change of duty station. Ex. 1, Report at 7 n. 21.

<sup>8</sup> See Uniform Code of Military Justice, 10 U.S.C. § 885 (Desertion); Uniform Code of Military Justice, 10 U.S.C. § 886 (Absence Without Leave); see also Paul von Zielbauer, *The Army is Cracking Down on Deserters*, N. Y. Times (Apr. 9, 2007), [www.nytimes.com/2007/04/09/us/09awol.html?pagewanted=print](http://www.nytimes.com/2007/04/09/us/09awol.html?pagewanted=print).

The backbone of the United States military is the family that supports them while they are at home and away.... Most military spouses are in the labor market, either employed or looking for employment. However, the unemployment rate for military spouses is three times as high as their civilian counterparts. There have been many studies on why this is the case, but one of the most evident causes is the fact that military families move on average every two to three years. Only 10% stay on the same base for longer than five years. This has a direct impact on military spouses obtaining and maintaining a career, specifically in the legal profession as a practicing attorney.<sup>9</sup>

The Department of Defense (“DOD”) recognizes that many military spouses need to work because of financial demands on their families,<sup>10</sup> and that may be particularly true of attorney military spouses because they frequently bear significant student loans from their undergraduate and legal training.<sup>11</sup> Absent the waiver policies that

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<sup>9</sup> Ohio Women’s Bar Assoc., *Provisional Bar Membership for Qualified Military Spouses* 1 (2009), [http://www.owba.org/Resources/Documents/Military\\_Spouses\\_Report\\_and\\_Recommendation.pdf](http://www.owba.org/Resources/Documents/Military_Spouses_Report_and_Recommendation.pdf).

<sup>10</sup> United States Gov’t Accountability Off., *Military Personnel Active Duty Benefits Reflecting Changing Demographics, but Opportunities Exist to Improve* 8 (2002), [www.gao.gov/new.items/d02935.pdf](http://www.gao.gov/new.items/d02935.pdf) (“DoD believes spouse employment is necessary for many military families to meet basic family expenses.”).

<sup>11</sup> See Am. Bar Assoc., *Average Amount Borrowed 2001-2012*, [www.americanbar.org/content/dam/aba/administrative/legal\\_education\\_and\\_admissions\\_to\\_the\\_bar/statistics/avg\\_amnt\\_brwd.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/statistics/avg_amnt_brwd.authcheckdam.pdf) (showing that from 2011-2012, average loans were \$84,600 for public law schools and \$122,158 for private law schools); see also American Bar Association, *Report of the Task Force on Financing Legal Education* 2 (2015), [https://www.americanbar.org/content/dam/aba/administrative/legal\\_education\\_and\\_admissions\\_to\\_the\\_bar/reports/2015\\_june\\_report\\_of\\_the\\_aba\\_task\\_force\\_on\\_the](https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/reports/2015_june_report_of_the_aba_task_force_on_the)

have now been passed by 29 states and the U.S. Virgin Islands,<sup>12</sup> a military spouse who moves with her partner often must apply for and take a bar exam every two to three years in a new jurisdiction or live and work separate from her service member spouse. Neither option is workable:

It is unreasonable to expect military spouses who want to maintain their legal careers to live apart from the service member, over and above the time they are separated by deployments and unaccompanied tours of duty. Most spouses, especially those with children, choose to accompany the service member, disrupting their personal lives and damaging their careers in the process.<sup>13</sup>

Bar exams are offered only twice a year and applications are due months in advance. Military spouse attorneys may not know where they will be stationed next more than a few months in advance, leaving little likelihood that they will be able to meet the applicable deadlines. The Conference of Chief Justices understands this: “Even under ideal circumstances, the process is time consuming, as the attorney must

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\_financing\_of\_legal\_education.authcheckdam.pdf (noting that the task force documented “. . . increasing rates of tuition and growing student debt” and that “many schools rely heavily on student loans for their revenue”).

<sup>12</sup> See Military Spouse J.D. Network, *Licensing Changes*, <https://www.msjudn.org/rule-change/>.

<sup>13</sup> Ex. 1, Report at 7.

acquire preparation materials, study and sit for a bar exam, and then wait months for the results, receipt of a license, and the swearing-in process.”<sup>14</sup>

In addition, military spouses often cannot take advantage of the policies in some States that allow practitioners to gain admission by motion based on their history of practice in another state and reciprocal arrangements between states.<sup>15</sup> In part because of the frequency of forced relocations, military spouses often struggle to meet the “previous practice”<sup>16</sup> requirements of such policies. This failure to meet the previous practice requirements can be due to many circumstances, including when: their military spouse has been assigned overseas, they have breaks in employment between duty stations, they have held non-attorney or part-time positions, or they have been unable to find legal work at a duty station.<sup>17</sup> Many states that allow admission by motion also restrict that admission to practitioners from another jurisdiction that have a reciprocal arrangement with the state.

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<sup>14</sup> Conference of Chief Justices, *Report to the Conference of Chief Justices Regarding Resolution 15*, at 3 (June 26, 2012), <https://msjdn.files.wordpress.com/2013/01/ccj-report-6-26-12-final.pdf>.

<sup>15</sup> Ex. 1, Report at 9. Admittedly, Georgia does not have reciprocity with Petitioner’s barred state of Louisiana. However, reciprocity is not a requirement under Georgia’s military spouse waiver policy.

<sup>16</sup> *See, e.g.*, Sup. Ct. of Georgia Rules Governing Admission to the Practice of Law Part C, Section 2(e) (“Has been primarily engaged in the active practice of law for five of the seven years immediately preceding the date upon which the application is filed.”)

<sup>17</sup> Ex. 1, Report at 9.

Service members and their families already make significant sacrifices for our country. Making it more difficult for military spouses to practice their profession only compounds the hardships they face.

**2. *The Insecurity That Military Spouses Endure Results In Unemployment, Underemployment, And Unequal Pay***

Military spouses are more likely to be unemployed than their civilian counterparts,<sup>18</sup> even though “military wives have higher levels of education compared with their civilian counterparts.”<sup>19</sup> Military wives are also more likely to be underemployed and earn less on average than their civilian counterparts.<sup>20</sup> One study found that military spouses face an earnings penalty of approximately 38% compared to their civilian peers.<sup>21</sup> When controlled for other differences, “the

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<sup>18</sup> Margaret Harrell, Nelson Lim, Laura Werber Castaneda & Daniela Golinelli, RAND Corporation, *Working Around the Military: Challenges to Military Spouse Employment and Education* 40 (2004), [www.rand.org/pubs/monographs/2004/RAND\\_MG196.pdf](http://www.rand.org/pubs/monographs/2004/RAND_MG196.pdf) (*hereinafter* RAND 2004); RAND 2007, *supra* note 6, at xiii, xiv, 32.

<sup>19</sup> RAND 2004, *supra* note 18, at 15. Notably, although most of the research has focused on wives (not surprisingly given that over 90% of military spouses are women), research on military husbands finds similar results. *See* RAND 2007, *supra* note 6, at xvi.

<sup>20</sup> *See* Nelson Lim & David Schulker, RAND Corporation, *Measuring Underemployment Among Military Spouses*, at xvi (2010), [https://www.rand.org/content/dam/rand/pubs/monographs/2010/RAND\\_MG918.pdf](https://www.rand.org/content/dam/rand/pubs/monographs/2010/RAND_MG918.pdf); RAND 2004, *supra* note 18, at 48; RAND 2007, *supra* note 6, at xiii, xiv.

<sup>21</sup> Deborah Bradbard, Rosalinda Maury & Nicholas Armstrong, *The Force Behind the Force: A Business Case for Leveraging Military Spouse Talent* (2016), <https://ivmf.syracuse.edu/wp>

disparity between military and civilian wife unemployment becomes even clearer and the impact of the husband's military service is . . . the major explanatory factor."<sup>22</sup>

The Military Spouse JD Network ("MSJDN") reports that fewer than a third of its members have full-time employment as attorneys and approximately half are underemployed in non-attorney positions, working part-time, or unemployed and actively looking for work.<sup>23</sup> MSJDN members cite licensing restrictions as a key impediment to their ability to find full-time employment as attorneys.<sup>24</sup>

Take just one example, cited in the ABA Report accompanying Resolution 108: Hon. Erin Wirth, co-founder of the Military Spouse JD Network and Coast Guard spouse, who graduated from law school sixteen years ago. Since then, she has moved seven times, taken and passed the full bar exam in three different jurisdictions, been admitted on motion to work for Legal Aid after being unable to qualify for admission on motion based on years of practice in a fourth jurisdiction, and practiced for the federal government in two other jurisdictions. She has held eleven full or part-time jobs, a number of which do not qualify as the full-time

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content/uploads/2016/12/ForceBehindtheForce.BusinessCaseforLeveragingMilitarySpouseTalentACC\_02.21.18.pdf.

<sup>22</sup> RAND 2004, *supra* note 18, at 40; *see also id.* at 61 ("[R]esidential mobility negatively affects the labor market conditions of military wives.").

<sup>23</sup> Ex. 1, Report at 9.

<sup>24</sup> *Id.*

practice of law frequently necessary to qualify for admission without examination. She has not held the same job for more than three years. And her experience is atypical -- she has moved *less* frequently than other military spouses because her husband has not been stationed in a war zone, overseas, or in a jurisdiction for less than a year.<sup>25</sup>

Military families with an attorney spouse frequently must choose between two equally undesirable options: the military spouse gives up her legal career, or the service member leaves the military. This dilemma drains the talent pool for both the legal profession and the military and imposes undue hardships on our military families.<sup>26</sup>

### **3. *The Federal And State Governments Have Taken Steps To Promote Our Military Families***

The United States has understood the importance of alleviating the burdens on military families since at least the Civil War.<sup>27</sup> In 2009, Congress specifically

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<sup>25</sup> *Id.* at 5.

<sup>26</sup> See generally David R. Segal, *The Demography of Military Families* (presented on Oct. 28, 2011), <http://www.prb.org/pdf11/segal-military-families-presentation.pdf> (“Spouse and family satisfaction with military life is major factor in decisions to stay in or separate from the military.”).

<sup>27</sup> Admin. & Civil Law Dep’t, The Judge Advocate General’s School, U.S. Army, JA 260, *The Servicemembers Civil Relief Act Guide 1-1* (2006), [https://www.americanbar.org/content/dam/aba/administrative/legal\\_assistance\\_military\\_personnel/SCRAguide.authcheckdam.pdf](https://www.americanbar.org/content/dam/aba/administrative/legal_assistance_military_personnel/SCRAguide.authcheckdam.pdf) (“During the Civil War, Congress enacted legislation suspending any statute of limitations where the war worked to thwart the administration of justice. In World War I, the Soldiers’ and Sailors’ Civil

addressed some of the challenges and hardships faced by military spouses through the Military Spouses Residency Relief Act.<sup>28</sup> The Military Spouses Residency Relief Act provides that a spouse shall neither lose nor acquire domicile or residence in a state when the spouse is present in the state solely to be with a service member in compliance with the service member's military orders. This change is part of the national initiative to reduce the burden on military families as they move from state to state.

The DOD has also focused on the importance of allowing military spouses to maintain licenses when moving from state to state. The DOD Military Community and Family Policy office has sought state legislation amending licensing requirements for fields governed by state regulatory agencies, such as real estate brokers, many medical professionals, and social workers.<sup>29</sup> In February, the

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Relief Act of 1918 directed trial courts to take whatever action equity required when service members' rights were involved in a controversy.”) (citations omitted).

<sup>28</sup> Pub. L. No. 111-97 (codified at 50a U.S.C. § 595 (2012)); *see also* U.S. Dep't of Justice, *Servicemembers & Veterans Initiative*, <https://www.justice.gov/servicemembers> (last visited Mar. 27, 2018).

<sup>29</sup> Lisa Daniel, *Military Spouses Get Help With Professional Licenses*, American Forces Press Serv., June 13, 2011, <http://archive.defense.gov/news/newsarticle.aspx?id=64285> (“States that have enacted laws for endorsement of licenses—or those waiting for a governor's signature—are Arizona, Colorado, Kansas, Montana, North Carolina, New York and Texas. States that allow temporary licenses are Alaska, Florida, Kentucky, Missouri, Ohio, South Carolina and Tennessee. Utah allows nonresident military spouses to use out-of-state licenses, and Virginia allows military spouses who leave the state to re-use the license upon their return.”).

secretaries of all three branches of the armed forces sent a letter to the National Governors Association, informing it that they would evaluate the quality of schools near bases and the reciprocity of professional licenses “when evaluating future basing or mission alternatives.”<sup>30</sup>

**4. *The ABA Adopted Resolution 108 Because Appropriate Accommodations For Attorney Military Spouses Benefit The Legal Community And The Military***

As this Court knows, the practice of law generally is not governed by state regulatory agencies but by the judiciary and the profession itself. The ABA House of Delegates therefore passed Resolution 108 to outline ways that the legal profession can ease the licensing burdens for military spouses as they move state to state with their service members. ABA House of Delegates Resolution 108 recognizes that “accommodations for military spouse attorneys benefit both the legal community and the military, while maintaining a high level of professionalism.”<sup>31</sup> Notably, Resolution 108 came to the floor of the House of Delegates with an

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<sup>30</sup> Letter from the Offices of the Secretaries of the Navy, Army, and Air Force to the National Governors Association re: Consideration of Schools and Reciprocity of Professional Licensure for Military Families in Future Basing or Mission Alternatives (Feb. 23, 2018), <https://media.defense.gov/2018/Feb/23/2001881660/-1/-1/1/Military-Family-School-Consideration-and-Professional-Licensure-Reciprocity.PDF>.

<sup>31</sup> Ex. 1, Report at 9.

exceptional number of co-sponsoring entities, a recognition of the importance of the issue for a myriad of ABA sections, entities, and allied bar associations.<sup>32</sup>

The Conference of Chief Justices adopted a similar resolution in July 2012 “urg[ing] the bar admission authorities in each state and territory to consider the development and implementation of rules permitting admission without examination for attorneys who are dependents of service members of the United States Uniformed Services and who have graduated from ABA accredited law schools and who are already admitted to practice in another state or territory.”<sup>33</sup> The report in support of the Chief Justices’ resolution recognized that, “[a]fter nearly a decade of armed conflict that has strained military families, the legal community can recognize the

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<sup>32</sup> The Commission on Women in the Profession sponsored the resolution which was co-sponsored by: the Section of State and Local Government Law, the Commission on Racial and Ethnic Diversity, the Section of Individual Rights and Responsibilities, the Section of Legal Education and Admission to the Bar, the Government and Public Sector Lawyers Division, the Young Lawyers Division, the Judicial Division, the Section of Litigation, the Standing Committee on Armed Forces Law, the Standing Committee on Client Protection, the Standing Committee on Ethics and Professional Responsibility, the Standing Committee on Lawyers’ Professional Liability, the Standing Committee on Legal Assistance for Military Personnel, the Standing Committee on Professional Discipline, the Hispanic National Bar Association, the National Association of Women Lawyers, and the National Conference of Women’s Bar Associations.

<sup>33</sup> Conference of Chief Justices, Resolution 15, *Encouraging Adoption of Rules Regarding Admission of Attorneys Who Are Dependents of Service Members* (July 25, 2012), <http://ccj.ncsc.org/~media/Microsites/Files/CCJ/Resolutions/07252012-Encouraging-Adoption-of-Rules.ash>.

sacrifices of military families within its own ranks by eliminating the licensing restrictions burdening military spouses.”<sup>34</sup>

The changes recommended by Resolution 108 are important to support the clients and employers of military spouse attorneys, as well as our military and their families. As the Report supporting Resolution 108 pointed out, technological change is making it possible for military spouses to continue assisting prior clients and employers even as their families are transferred to another base under military orders.<sup>35</sup> Unauthorized practice of law regulations, however, prevent military spouses who would otherwise continue serving the same clients, albeit while telecommuting, from doing so.<sup>36</sup> Thus, clients lose the benefit of being represented by their preferred attorney and employers lose an otherwise competent, well-trained lawyer.

Additionally, military spouses are uniquely well-versed in the complexities of military life, and are thus particularly well-suited to serve clients in the military, either through paid or volunteer work.<sup>37</sup> Because so many military spouses practice

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<sup>34</sup> Conference of Chief Justices, *Report to the Conference of Chief Justices Regarding Resolution 15*, at 2 (2012), <https://msjdn.files.wordpress.com/2013/01/ccj-report-6-26-12-final.pdf>.

<sup>35</sup> Ex. 1, Report at 10.

<sup>36</sup> *See, e.g.*, Georgia Rules of Prof'l Conduct r. 5.5.

<sup>37</sup> Ex. 1, Report at 10.

in multiple jurisdictions, are forced to regularly adapt to a rapidly changing environment, and quickly learn to use local resources, they also bring practical skills to the profession that benefit their clients.<sup>38</sup>

**5. *The Supreme Court of Georgia Adopted A Waiver Policy In 2016 To Accommodate Military Spouse Attorneys***

Twenty-nine states and the U.S. Virgin Islands have adopted regulations supporting military spouse attorneys. Georgia became the 22nd state to adopt a regulation reducing licensing barriers for military spouses on October 12, 2016 (the “Waiver Policy”). In announcing the Waiver Policy, the Office of Bar Admissions stated: “Recognizing that active duty military personnel are frequently transferred to duty stations in any number of states, making it extremely difficult for their attorneys spouses, who, while admitted to practice in one state, may not be admitted in the state of the new duty station, the Board of Bar Examiners seeks to accommodate the bar admission needs of attorney spouses of military personnel while still maintaining the integrity of the bar admission process.”<sup>39</sup>

A military spouse seeking a waiver must show that he or she is:

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<sup>38</sup> *Id.*

<sup>39</sup> Sup. Ct. of Georgia Office of Bar Admissions, *Military Spouse JD Waiver Process and Policy: Waiver Process and Policy Available for Military Spouse JDs Seeking Admission in Georgia* (2017), <https://www.gabaradmissions.org/news.action?id=740>.

- (a) An attorney at law who has been admitted by examination to membership in the bar of the highest court of another United States jurisdiction;
- (b) The dependent spouse of an active duty member, including but not limited to members called to active duty under Title 10 of the United States Code, of the United States Uniformed Services as defined by the Department of Defense of the United States (or, for the Coast Guard, when it is not operating in the service of the Navy, by the Department of Homeland Security); and
- (c) The spouse of a service active duty member who is on military orders stationed or home-ported in the State of Georgia.<sup>40</sup>

In addition, the military spouse petitioner must submit a variety of supporting materials as described in the Instructions and Checklist for Filing Petition for Waiver of Admissions on Motion Requirements for Admission of a Military Spouse Attorney to the Practice of Law in Georgia. The Board of Bar Examiners (“Board”) considers the following criteria in evaluating the petition:

- (1) The duration of the military spouse petitioner’s engagement in the active practice of law, as defined in Part C, Section 3 of the Rules;
- (2) The military spouse petitioner’s employment history in the legal profession; and
- (3) The career goals of the military spouse petitioner.<sup>41</sup>

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<sup>40</sup> *Id.*

<sup>41</sup> *Id.*

The ABA supports Georgia's waiver policy, and seeks to encourage its use and enforcement to the benefit of all military spouse attorneys.

**B. The Board Denied Petitioner's Application Without Explanation, Thus Leaving The Court No Basis To Evaluate The Implementation Of The Waiver Policy And Potentially Depriving Petitioner Of Due Process**

Petitioner is undeniably a military spouse eligible for admission pursuant to the Waiver Policy. Petitioner further claims that she has presented clear and convincing evidence of good cause to support her application for admission by motion under the applicable criteria, and the relaxed standard of accommodation that applies. The ABA does not take a position on the adequacy of that evidence or the merits of Petitioner's application. However, the ABA has concerns that the Board's failure to explain the basis for its decision to deny Petitioner's application risks the improper implementation of the Waiver Policy, undermining its utility, interfering with this Court's judicial review function, and potentially violating Petitioner's procedural due process rights.

This Court should reverse the Board's decision, or at the very least remand so that the Board can give a reasoned explanation of its decision on Petitioner's application.

**1. *The Board Is Required To Implement The Waiver Policy, And Should Construe It Liberally To Effectuate Its Intended Accommodation***

This Court’s Office of Bar Admissions formally adopted the Waiver Policy by exercising its discretion under Part F, Section 5 of the Georgia Rules Governing Admission to the Practice of Law (“Rules”). The Waiver Policy waives the standard “Admission on Motion Without Examination” requirements set forth in Part C of the Rules as they apply to military spouse attorneys seeking admission by motion, and sets forth new procedures that the Board is *required* to follow. *See* Sup. Ct. of Ga. Office of Bar Admissions, *Military Spouse J.D. Waiver Process & Policy* (2017) (*hereinafter* “Waiver Policy”).

In deciding to forgo the traditional standard for admission without examination under Part C, Section 2 of the Georgia Rules Governing Admission to the Practice of Law, this Court’s Office of Bar Admission identified only three factors to evaluate the adequacy of a military spouse’s waiver application:

- (1) The duration of the military spouse petitioner’s engagement in the active practice of law, as defined in Part C, Section 3 of the Rules;
- (2) The military spouse petitioner’s employment history in the legal profession; and
- (3) The career goals of the military spouse petitioner.

*See* Waiver Policy.

Unlike the Part C procedures, “which place the burden on the applicant to establish the fitness to practice law” by motion, *In re G.E.C.*, 269 Ga. 744, 745 (1998), the Waiver Policy is expressly intended “to accommodate the bar admission needs of attorney spouses of military personnel,” *see* Waiver Policy.

Accordingly, when a military spouse applies for admission to the Georgia Bar by motion, the Board is *required* to consider the criteria contained within the Waiver Policy, and not the more onerous requirements of Part C, Section 2, to determine whether that applicant has provided “good cause” for admission by motion. *See Waiver Policy*. What amounts to good cause under these criteria should be “liberally construed” because applications for admission pursuant to the Waiver Policy arise in the context of an overall public policy of “accommodation.” *See Scott v. Butler*, 327 Ga. App. 457, 463, 759 S.E. 2d 545, 550 (Ga. Ct. App. 2014) (“liberally construing” good cause standard as applied to benefits petitioner “in compliance with Georgia’s public policy favoring” petitioner’s claim); *Hudson v. Butler*, 337 Ga. App. 207, 209, 786 S.E. 2d 879, 881 (Ga. Ct. App. 2016) (construing “good cause” standard contained within unemployment statute “liberally” in favor of employee “in light of the expressed purpose of the Employment Security Law”); *see also Atl. Coast Line R.R. Co. v. Daugherty*, 111 Ga. App. 144, 157, 141 S.E.2d 112, 120 (Ga. Ct. App. 1965) (holding that good cause standard applied to discovery

issues “[is] to be liberally interpreted” in light of public policy “purpose of the . . . procedure”).

**2. *Petitioner Presented Evidence That She Claims Makes Her Eligible And Entitled To Admission Under The Waiver Policy***

The Board does not dispute that Petitioner meets the objective criteria to qualify as a military spouse eligible for admission pursuant to the Waiver Policy: she is an attorney admitted since 2014 to practice law in the State of Louisiana, and the dependent spouse of an active-duty Army Infantry Captain on military orders to be stationed in Fort Benning, Georgia. *See* Br. for Appellant at 4, 10; *see* Waiver Policy (setting forth eligibility criteria).

Petitioner argues that her application provided clear and convincing evidence sufficient to allow her to practice law in Georgia pursuant to the Waiver Policy’s discretionary admission factors, and the liberal “good cause” standard that applies to them. The record demonstrates that Petitioner did, at a minimum, present at least *some* evidence to support her application under each of the three applicable factors.

With respect to the first, Petitioner presented evidence that she has been practicing law (as defined in Part C, Section 3) for more than three years. *See* Br. for Appellant at 10-11. Whether or not that is enough, the ABA notes that requiring Petitioner to have practiced for any much longer period of time—such as “five of the preceding seven years,” which was the requirement set forth in Part C, Section 2 that the Office of Bar Admission *expressly overrode* by creating the Waiver Policy—

would unreasonably defeat the purpose of having a Waiver Policy to begin with. *See Spivey v. State*, 274 Ga. App. 834, 835, 839, 619 S.E.2d 346, 348, 351 (Ga. Ct. App. 2005) (explaining that language should be read “to give effect to the real legislative intent and meaning” but “not so strictly as to defeat the legislative purpose” or “limit their operation”).<sup>42</sup>

As to the second and third factors, Petitioner has presented documented evidence and sworn testimony that, she claims, is sufficient to establish that she is an experienced and able practitioner who intends to make a career in the law. Without taking a position on that assertion either, certain facts are not in dispute. For example, prior to relocating to Georgia, the evidence shows that Petitioner developed a diverse public interest practice representing indigent children in welfare matters and resolving labor disputes. *See Br. for Appellant* at 11. The evidence further demonstrates that Petitioner served as a judicial law clerk, and volunteers her services on a *pro bono* basis to service members, military personnel, and their families at the base where she has been stationed. *See id.* 11.

If nothing else, Petitioner appears to have managed to develop her practice despite repeatedly encountering the very obstacles the Waiver Policy intends to

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<sup>42</sup> Indeed, imposing any much higher standard would effectively deny accommodation to the younger attorneys most likely to seek it. *See supra* note 7 (noting that military spouses under thirty move every thirty-three months, on average).

mitigate. Twice now, Petitioner's evidence indicates that she has had to resign from attorney positions because of her husband's service to the United States. *Id.* at 6. Based on those facts, Petitioner would seem to be the precise sort of candidate intended to benefit from the Waiver Policy's accommodation.

**3. *Because The Board Denied Petitioner's Application Without Any Explanation, There Is No Basis To Evaluate The Board's Construction Or Implementation Of The Waiver Policy***

Whatever discretion the Board might have had to construe the Waiver Policy and deny Petitioner's application, it could not have included the capacity to do so without any reasoning or rational explanation. The Waiver Policy, after all, sets forth a rule-bound process. There is simply no way to know whether the Board had faithfully executed its obligation to apply that process, let alone correctly, when it denied Petitioner's application without an explanation of its basis for doing so.

This Court's precedent makes clear that the Board may not disregard the criteria established in the Waiver Policy or deny admission without any reasoning or rational explanation. *See In re Barge*, 264 Ga. 498 (1994) (per curiam). In *Barge*, the Board failed to explain its decision to reinstate an attorney when the applicable rule required the decision be made on clear and convincing evidence, *id.* at 499, just like the Waiver Policy requires. The Court noted the Rule did not expressly require the Board to explain its decision, but concluded that the Court could not exercise its constitutionally-committed reviewing function, "pursuant to [its] inherent power in

matters of attorney discipline and bar admissions,” without a written explanation from the Board. *Id.* Only then could this Court review whether the Board correctly applied the required process. *Id.*

The Board’s *pro forma* denial letter to Petitioner, devoid of any explanation, raises precisely these concerns. It leaves interested parties like the ABA without any opportunity to evaluate the proper implementation of the Waiver Policy, and interferes with this Court’s obligation to exercise judicial review. At a minimum, the Court should remand Petitioner’s application to the Board for reconsideration to ensure that the Waiver Policy’s rule-bound process is actually implemented.

**4. *The Board’s Failure To Provide an Explanation for Denying Petitioner’s Application Also Raises Due Process Concerns***

Both the Federal and Georgia constitutions enshrine the fundamental principle of due process: the government cannot deprive a person of “life, liberty, or property” without due process of the law. *See* U.S. Const. amends. V, XIV, § 1; Ga. Const. art. I, § 1, ¶ 1. “The requirements of procedural due process must be met before a State can exclude a person from practicing law.” *Willner v. Comm. on Character & Fitness*, 373 U.S. 96, 102 (1963). Specifically, before a State can exclude a person from practicing law, due process requires at a minimum advisement “of what the Government proposes and to be heard upon its proposals before it issues its final command.” *Id.* at 105.

The process followed by the Board in denying Petitioner's application without explanation accordingly also raises serious due process concerns, not unlike those raised in *Willner*. In that case, the applicant was denied admission to practice law without explanation. *See* 373 U.S. at 100-01. In holding for *Willner*, the Supreme Court relied on a previous holding that a licensing authority's discretion must "be exercised after fair investigation, with such a notice, hearing and opportunity to answer for the applicant as would constitute due process," and explained that the applicant should be entitled to notice of, and an opportunity to confront, any evidence or testimony that the authorities were considering against him. *Id.* at 103 (quoting *Goldsmith v. U.S. Board of Tax Appeals*, 270 U.S. 117, 123 (1926)). The Supreme Court held that *Willner* had a procedural right to be "informed of and allowed to rebut the bases for either the Committee's or the Appellate Division's failure to find his good character." *Id.* at 104-105. The plaintiff was entitled, in other words, to a clear explanation of why the recommendation had been adverse. The Supreme Court explained that "the requirements of fairness are not exhausted in the taking or consideration of evidence but extend to the concluding parts of the procedure as well as to the beginning and intermediate steps." *Id.* at 105 (internal quotation omitted).

The Board's action here is difficult to square with these specific constitutional guarantees, set forth by the U.S. Supreme Court, especially in light of the Waiver

Policy’s overall goal of accommodation. The Board simply sent Petitioner a letter telling her that it had rejected her application. She was not advised of or given an opportunity to confront any evidence weighing against her application. She was not told of any reasons why the Board might have reservations about her application, nor allowed to be heard on the Board’s proposals before it issued its final command. And she was not even provided with an explanation of the basis of the Board’s decision<sup>43</sup>—the critical “concluding part[] of the process” that the Supreme Court clearly held was required by due process in *Willner*.<sup>44</sup>

In addition to the concerns expressed above, these procedural deficiencies by themselves warrant vacating the Board’s decision and remanding for further

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<sup>43</sup> In an affidavit submitted to this Court that was not in the record and only drafted after the proceedings had closed, the Board asserts a number of possible grounds on which it could have denied Petitioner’s application. Although the ABA takes no position on those facts, to the extent the Board relied on them, it only underscores the necessity of affording petitioner an opportunity to respond.

<sup>44</sup> A violation of Due Process rights is troublesome in any context, but is particularly troublesome here, where this Court and its Office of Bar Admissions enacted the Waiver Policy with the specific intent to accommodate applicants like Petitioner. Due to her spouse’s status as a service member and her family’s service to this country, she has had—and will continue to have—difficulty continuing to practice law. If the Board’s denial of Petitioner’s application stands, the Board may deny other applications under the Policy without explanation, which would continue to violate Due Process and thwart the entire purpose of the Policy. Moreover, such an outcome would arguably have a disparate impact on female attorneys, since, as documented by DOD, over 92% of military spouses are women. Allowing denials without explanation in circumstances that disparately affect women could create a system which allows rampant gender discrimination to occur with impunity and create yet another constitutional issue.

proceedings so that the Board can provide Petitioner with an opportunity to respond to any concerns that it has about her application and a fully reasoned explanation of its rejection of her application

### **III. CONCLUSION**

The Waiver Policy is intended to accommodate and enable qualifying military spouse attorneys to engage in the practice of law. The Petitioner in this case has met all of the objective eligibility criteria to avail herself of that process, and provided evidence that appears to satisfy each of the discretionary factors that the Board is required to consider. By denying Petitioner's application without explanation, however, the Board raises concerns that it is failing to implement the Waiver Policy, interfering with this Court's obligation to exercise judicial review, and violating Petitioner's procedural due process rights. Accordingly, this Court should reverse its decision, or at the very least, vacate and remand for proceedings consistent with these obligations.

Dated: March 28, 2018

Respectfully submitted,

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## CERTIFICATE OF SERVICE

I hereby certify that I have this day caused to be served a true and correct copy of the within and foregoing Brief of Amicus Curiae American Bar Association on the following parties or persons by placing a copy in the U.S. mail in a properly addressed envelope with sufficient postage affixed thereto:

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# **EXHIBIT 1**

AMERICAN BAR ASSOCIATION

ADOPTED BY THE HOUSE OF DELEGATES  
FEBRUARY 6, 2012

RESOLUTION

RESOLVED, That the American Bar Association urges state and territorial bar admission authorities to adopt rules, regulations, and procedures that accommodate the unique needs of military spouse attorneys who move frequently in support of the nation's defense, including but not limited to:

1. Enacting "admission by endorsement" for military spouse attorneys, whereby a military spouse attorney holding an active license to practice law in at least one state, territory or the District of Columbia, in good standing in all jurisdictions where admitted, and who possesses the requisite character and fitness and meets the educational standards required for admission would be admitted without examination to the practice of law in another jurisdiction, while the applicant:
  - a. demonstrates presence in that jurisdiction due to a spouse's military service;
  - b. establishes that he or she is not currently subject to a lawyer discipline or the subject of a pending disciplinary matter in any jurisdiction;
  - c. pays any applicable annual client protection fund assessment; and
  - d. complies with all other ethical, legal and continuing legal education obligations;
2. Reviewing current bar application and admission procedures to ensure that they are not unduly burdensome to military spouse attorneys and that those applications are handled promptly;
3. Encouraging mentorship programs to connect military spouse attorneys with local members of the bar; and
4. Offering reduced bar application and membership fees to military spouse attorneys who are new to the jurisdiction or who no longer reside in the jurisdiction but wish to retain bar membership.

## REPORT

### Background

The American Bar Association recognizes the unique responsibilities and challenges faced by the military and their families. “Being in the military is a 24/7 commitment that takes its members and their families across the country, and around the world,” according to ABA Immediate Past President Stephen N. Zack.<sup>1</sup> By adopting this Resolution, the legal community will support military spouses as they strive to maintain their legal careers in this 24/7 lifestyle.

The legal profession has a long history of ensuring that legal procedures do not unduly prejudice servicemembers and their families.<sup>2</sup> The Soldiers’ and Sailors’ Civil Relief Act of 1940<sup>3</sup> was amended in 1942 to add a section specifically extending certain protections to military dependents, including spouses, “to avoid situations in which dependents suffered as a result of the servicemember’s period of service.”<sup>4</sup> A number of amendments have increased the protections available to both servicemembers and their families.

The ABA continues to support legislation enhancing and strengthening legal protections for servicemembers and their families. According to Dennis Archer, ABA President in 2003:

The [Servicemembers Civil Relief Act] gives the men and women of our military additional peace of mind, by protecting their rights and interests when they answer the call to duty. More so than words of praise or promise, the Servicemembers Civil Relief Act demonstrates to our soldiers, sailors and their families that our nation values their sacrifice and is behind them, absolutely.<sup>5</sup>

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<sup>1</sup> Alexandra Buller, *ABA Launches New Website for Military Families*, (May 2011), available at [www.abanow.org/2011/05/aba-launches-new-website-for-military-families](http://www.abanow.org/2011/05/aba-launches-new-website-for-military-families).

<sup>2</sup> “During the Civil War, Congress enacted legislation suspending any statute of limitations where the war worked to thwart the administration of justice. In World War I, the Soldiers’ and Sailors’ Civil Relief Act of 1918 directed trial courts to take whatever action equity required when servicemembers’ rights were involved in a controversy.” The Judge Advocate General’s Legal Center & School, U.S. Army, JA 260, *Servicemembers Civil Relief Act at 1-1* (March 2006) (citations omitted) (hereinafter “JAG SSCRA Report”), available at [www.americanbar.org/content/dam/aba/migrated/legalservices/lamp/downloads/SCRAguide.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/migrated/legalservices/lamp/downloads/SCRAguide.authcheckdam.pdf).

<sup>3</sup> 54 Stat. 1178 (1940).

<sup>4</sup> JAG SSCRA Report at 4-1.

<sup>5</sup> Dennis Archer, ABA President, “Statement Re: The Signing of the Servicemembers Civil Relief Act” (Dec. 23, 2003), available at [www.abanow.org/2003/12/statement-re-the-signing-of-the-servicemembers-civil-relief-act](http://www.abanow.org/2003/12/statement-re-the-signing-of-the-servicemembers-civil-relief-act); see also “ABA President Urges Congress to Adopt Servicemembers’ Legal Protection Act” (June 24, 2004), available at [www.abanow.org/2004/06/aba-president-urges-congress-to-adopt-servicemembers'-legal-protection-act](http://www.abanow.org/2004/06/aba-president-urges-congress-to-adopt-servicemembers'-legal-protection-act) and ABA Resolution 114 (Feb. 2009) (supporting authorizing civil enforcement

# 108

The ABA House of Delegates has adopted many policies supporting and advancing the personal rights and interests of American servicemembers and their families, including the following: urging provision of civil legal assistance to low income military servicemembers and their dependents (8/90, 2/03, and 2/07); supporting federal legislation for advance medical directives prepared for members of the armed forces and their spouses to be recognized as lawful notwithstanding state and territorial law (8/94); protecting military homeowners, including spouses, by allowing them to maintain as a principle residence a home from which they are absent due to military orders (2/00); urging rules permitting children of deployed servicemembers to attend pre-deployment local public schools tuition free even when required to move outside the school district to reside with a temporary caretaker due to a parent's deployment (2/07); urging reexamination of the *Feres* doctrine whereby servicemembers are denied the benefits of the Federal Tort Claims Act (8/08); and ensuring participation in U.S. elections of military personnel and overseas civilians (2/11).

This Resolution differs from other legislation and ABA policies supporting military families by recognizing military spouses as peers, rather than as clients. However, the ideals underlying the ABA's endorsement of the Servicemembers Civil Relief Act, and of other legislation and administrative action supportive of servicemembers, are the same ideals compelling support for this Resolution. After nearly a decade of armed conflict that has strained military families, the legal community should recognize the sacrifices of military families within its own ranks by easing the licensing restrictions and burdens on military spouses.

## **Unique Challenges Faced by Military Families**

Unlike the civilian sector, the United States Uniformed Services is not an optional assignment-based system. National security dictates that military families move based upon the needs of the service and servicemembers may face criminal penalties if they fail to report to a duty station as ordered.<sup>6</sup> Thus, attorney spouses who seek to maintain successful legal careers face unique challenges due to their geographic insecurity.

The current system creates burdens for military spouse attorneys, who must apply for and take the bar exam every two to three years in a new jurisdiction or live and work separate from their servicemember husband or wife. Neither option is appealing, and the latter is nearly impossible, especially in families with children. Many military spouse attorneys work because of financial need, especially attorneys who have student loans to repay.<sup>7</sup>

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actions, private rights of action, and attorney fees for violations of the Servicemembers Civil Relief Act.).

<sup>6</sup> UCMJ, 10 U.S.C. § 885 (Desertion); UCMJ, 10 U.S.C. § 886 (Absence Without Leave); see also Paul von Zielbauer, *The Army is Cracking Down on Deserters*, N. Y. Times (April 9, 2007), available at [www.nytimes.com/2007/04/09/us/09awol.html?pagewanted=print](http://www.nytimes.com/2007/04/09/us/09awol.html?pagewanted=print).

<sup>7</sup> "DoD believes spouse employment is necessary for many military families to meet basic family expenses." United States General Accounting Office, *Military Personnel Active Duty Benefits*

As an example, Hon. Erin Wirth, co-founder of the Military Spouse JD Network<sup>8</sup> and Coast Guard spouse, graduated from law school sixteen years ago. Since then, she has moved seven times, taken and passed the full bar exam in three different jurisdictions, been admitted on motion to work for legal aid after being unable to qualify for admission on motion based on years of practice in a fourth jurisdiction, and practiced for the federal government in two other jurisdictions. She has held eleven full or part time jobs, a number of which do not qualify as the full time practice of law frequently necessary to qualify for admission on motion. She has not held the same job for more than three years. To the extent that her experience is atypical, it is because her husband has not been stationed in a war zone, overseas, or in a jurisdiction for less than a year.<sup>9</sup>

Because of geographic insecurity and licensing restrictions, military spouse attorneys are not encouraged to pursue the legal profession due to lack of financial incentives, educational opportunities, and role models. Attorney military spouses who are currently practicing law must give up traditional careers in order to support the servicemember, or, alternatively, the servicemember is forced to leave the military, causing the military to lose smart, extensively trained, highly skilled, and talented servicemembers.

This Resolution supports the legal rights and standing of United States servicemembers and their families by urging that courts and bar admission authorities ease unreasonable burdens on them. Recognizing that frequent transfers are required of military families, courts and bar admission authorities in each state and territory are urged to adopt rules, regulations, and procedures that accommodate the unique needs of military spouse attorneys, including but not limited to: license by endorsement, revised application and admission procedures, mentorship, and fee reductions. Under this Resolution, military spouse attorneys would be full members of the bar and subject to the same ethical, legal, and continuing legal education requirements as other attorneys in the jurisdiction to ensure the protection of clients. Reducing licensing restrictions will improve employment opportunities and the well-being of military families, upon whose service our country's defenses depend.

### **The Mobility Required of Military Families**

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*Reflecting Changing Demographics, but Opportunities Exist to Improve* (Sept. 2002) at 8, available at [www.gao.gov/new.items/d02935.pdf](http://www.gao.gov/new.items/d02935.pdf).

<sup>8</sup> Mary Reding, Esq. and Hon. Erin Wirth formed the Military Spouse JD Network so that military spouse attorneys could advocate, educate, and network. See [www.MilitarySpouseJDNetwork.org](http://www.MilitarySpouseJDNetwork.org).

<sup>9</sup> See Laura Dempsey, *The Military vs. Marriages*, The Washington Post (Feb 19, 2008), available at [www.washingtonpost.com/wp-dyn/content/article/2008/02/18/AR2008021801538.html](http://www.washingtonpost.com/wp-dyn/content/article/2008/02/18/AR2008021801538.html) ("I've been a lawyer and an Army wife for 10 years. In that period, I've moved seven times. I've taken four different bar exams and held five different jobs. My income has been taxed in at least five states. My children have had five different nannies. I think it's safe to say that military wives like me face career obstacles that few civilian wives could appreciate.").

# 108

Military families face unique challenges as they protect our freedom. As explained by the Ohio Women's Bar Association:

The backbone of the United States military is the family that supports them while they are at home and away.... Most military spouses are in the labor market, either employed or looking for employment.<sup>10</sup> However, the unemployment rate for military spouses is three times as high as their civilian counterparts.<sup>11</sup> There have been many studies on why this is the case, but one of the most evident causes is the fact that military families move on average every two to three years.<sup>12</sup> Only 10% stay on the same base for longer than five years.<sup>13</sup> This has a direct impact on military spouses obtaining and maintaining a career, specifically in the legal profession as a practicing attorney.<sup>14</sup>

Nationally, research confirms that military spouses<sup>15</sup> are more likely to be unemployed than their civilian counterparts.<sup>16</sup> Military wives also have a much greater tendency to be underemployed as compared to a weighted group of civilian wives.<sup>17</sup> Military wives who are employed earn less, on average, than do civilian wives.<sup>18</sup> This is true, even though “military wives have higher levels of education compared with their civilian counterparts.”<sup>19</sup> When controlled for differences, “the disparity between military and civilian wife unemployment becomes even clearer and the impact of the husband’s military service is revealed as the major explanatory factor.”<sup>20</sup>

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<sup>10</sup> DoD, *Report on Military Spouse Education and Employment* (Jan. 2008) at 2, available at [images.military.com/spouse/Report\\_to\\_Congress\\_on\\_Military\\_Spouse\\_Education\\_and\\_Employment\\_Jan\\_2008.pdf](http://images.military.com/spouse/Report_to_Congress_on_Military_Spouse_Education_and_Employment_Jan_2008.pdf); see also Bluestar Families, *2010 Military Lifestyle Survey, Executive Summary* (Sept. 2010) at 8, available at [www.bluestarfam.org/resources/Surveys](http://www.bluestarfam.org/resources/Surveys).

<sup>11</sup> DoD, *Report on Military Spouse Education and Employment* at 2.

<sup>12</sup> DoD, *Report on Military Spouse Education and Employment* at 2; United States Government Accountability Office, *Military Personnel Active Duty Benefits Reflecting Changing Demographics, but Opportunities Exist to Improve* (Sept. 18, 2002) at 8, available at [www.gao.gov/new.items/d02935.pdf](http://www.gao.gov/new.items/d02935.pdf).

<sup>13</sup> DoD, *Report on Military Spouse Education and Employment* at 2; Nelson Lim, Daniela Golinelli, Michelle Cho, *'Working Around the Military' Revisited*, RAND Corporation at 18-19 (2007), available at [www.rand.org/pubs/monographs/2007/RAND\\_MG566.pdf](http://www.rand.org/pubs/monographs/2007/RAND_MG566.pdf) (“only 10 percent of military wives had stayed in one location” as compared with half of civilian wives.).

<sup>14</sup> Ohio Women’s Bar Association, *Report & Recommendation - Provisional Bar Membership*, (May 2009), available at [www.owba.org/Resources/Documents/Military\\_Spouses\\_Report\\_and\\_Recommendation.pdf](http://www.owba.org/Resources/Documents/Military_Spouses_Report_and_Recommendation.pdf).

<sup>15</sup> Although most of the research has focused on wives, research on military husbands finds similar results. RAND 2007 at xvi.

<sup>16</sup> Margaret Harrell, Nelson Lim, Laura Werber Castaneda, Daniela Golinelli, *Working Around the Military Challenges to Military Spouse Employment and Education*, RAND Corporation at 40 (2004), available at [www.rand.org/pubs/monographs/2004/RAND\\_MG196.pdf](http://www.rand.org/pubs/monographs/2004/RAND_MG196.pdf); RAND 2007 at xiii, xiv, xx.

<sup>17</sup> Nelson Lim, David Schulker, *Measuring Underemployment Among Military Spouses*, RAND Corporation at xvi (2010).

<sup>18</sup> RAND 2004 at 48; RAND 2007 at xiii, xiv.

<sup>19</sup> RAND 2004 at 15.

<sup>20</sup> RAND 2004 at 40; see also 61 (“residential mobility negatively affects the labor market conditions of military wives”).

A typical military family moves every two to three years, in addition to periods of temporary duty or extended unaccompanied deployments.<sup>21</sup> It is not uncommon for a servicemember to be transferred more than fifteen times in a thirty-year career, including tours overseas. Military spouses are more than nine times as likely to have moved across state lines in the last year relative to the total population. Research indicates that “the feature of military life that most negatively affects military wives’ careers is being asked to move often and far.”<sup>22</sup>

For the servicemember these moves are generally not avoidable, optional, or voluntary. According to the 2007 RAND report, “unlike civilian couples, who can make relocation decisions considering advantages and disadvantages for all family members, military couples must move according to the timing and placement of the service members’ new assignment.”<sup>23</sup> The failure to comply with transfer orders may be chargeable as a federal offense. Not being where he or she is required to be—when they are required to be there—can result in a court-martial conviction for the military member. Potential penalties include jail, loss of rank, or dishonorable discharge.<sup>24</sup> For the spouse of a servicemember, transfer orders are voluntary only in a technical sense. It is unreasonable to expect military spouses who want to maintain their legal careers to live apart from the servicemember, over and above the time they are separated by deployments and unaccompanied tours of duty. Most spouses, especially those with children, choose to accompany the servicemember, disrupting their personal lives and damaging their careers in the process.

### **Current National Initiatives to Reduce Burdens on Military Spouses**

Recently Congress specifically recognized and ameliorated some of the hardships endured by military spouses based solely on their marital status and their spouses’ profession through the Military Spouses Residency Relief Act.<sup>25</sup> The Military Spouses Residency Relief Act amends the Servicemembers Civil Relief Act to provide that a spouse shall neither lose nor acquire domicile or residence in a state when the spouse is present in the state solely to be with the servicemember in compliance with the servicemember’s military orders. This change is part of the national initiative to reduce the burden on military families as they move from state to state.

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<sup>21</sup> Active duty spouses thirty years old or younger move every thirty-three months due to the service member’s change of duty station, on average. Defense Manpower Data Center, *Military Family Life Project* (2010), available at [conferences.cna.org/pdfs/longitudinalstudy.pdf](http://conferences.cna.org/pdfs/longitudinalstudy.pdf).

<sup>22</sup> RAND 2004 at 18.

<sup>23</sup> See RAND 2007 at 4, see also 20 (“military couples have less choice of when or where to move” than civilian couples.).

<sup>24</sup> Any person found guilty of desertion or attempt to desert shall be punished, if the offense is committed in time of war, by death or such other punishment as a court-martial may direct, but if the desertion or attempt to desert occurs at any other time, by such punishment, other than death, as a court-martial may direct. UCMJ, 10 U.S.C. § 885 (although death has not been imposed since 1945).

<sup>25</sup> 50 U.S.C. App. 595 Public Law 111-97 (Nov. 11, 2009); see also [www.servicemembers.gov](http://www.servicemembers.gov) (USDOJ Civil Rights Division).

# 108

The White House, through its Joining Forces initiative, is leading efforts to reduce licensing restrictions and improve employment opportunities for military spouses in every profession. This coordinated and comprehensive federal approach to supporting military families is outlined in the 2011 White House initiative, “Strengthening Our Military Families: Meeting America’s Commitment,” which states:

The challenge is to reduce the barriers that currently prevent military spouses from maintaining a career or employment on a normal progression path regardless of relocation. The lack of broad-based reciprocity among the states to recognize professional licenses or certificates held by military spouses creates a significant barrier to employment. Additionally, frequent moves result in military spouses incurring high costs for recertification and increased delays before they are able to work due to state licensing requirements in fields such as teaching and medical services. Finally, employers may need more exposure to the benefits of hiring military spouses.<sup>26</sup>

The Department of Defense (“DoD”) is also concerned about the impact of spouse employment on military recruitment and retention.<sup>27</sup> Inability to pursue employment increases stress and friction within a marriage that can lead to dissatisfaction with the military lifestyle. The failure of a military spouse to find appropriate and fulfilling employment has an impact on the whole family and can be the driving factor in the servicemember’s leaving the service prematurely. As a consequence, years of education and training devoted to that servicemember will be wasted.

The ability to maintain or transfer a professional license when moving from state to state has a direct impact on the ability of the spouse to find employment. The DoD Military Community and Family Policy office has addressed the licensing issue through state legislation for those career fields that are governed by state regulatory agencies.<sup>28</sup> This includes nearly all medical professionals, real estate brokers, and social workers just to name a few. The practice of law is not governed by a state regulatory agency, therefore the legislation that the DoD has advocated for does not include the practice of law. This Resolution identifies specific ways the legal profession, itself, can develop career opportunities and eliminate professional licensing barriers for military spouse

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<sup>26</sup> White House, *Strengthening Our Military Families: Meeting America’s Commitment* (2011), available at [www.defense.gov/home/features/2011/0111\\_initiative/strengthening\\_our\\_military\\_january\\_2011.pdf](http://www.defense.gov/home/features/2011/0111_initiative/strengthening_our_military_january_2011.pdf).

<sup>27</sup> Defense Manpower Data Center, *Survey of Active Duty Spouses* (2008), available at [www.dmdc.osd.mil/appj/dwp/index.jsp](http://www.dmdc.osd.mil/appj/dwp/index.jsp).

<sup>28</sup> Lisa Daniel, *Military Spouses Get Help With Professional Licenses*, American Forces Press Service, (June 13, 2011), available at [www.defense.gov/news/newsarticle.aspx?id=64285](http://www.defense.gov/news/newsarticle.aspx?id=64285). “States that have enacted laws for endorsement of licenses -- or those waiting for a governor’s signature -- are Arizona, Colorado, Kansas, Montana, North Carolina, New York and Texas. States that allow temporary licenses are Alaska, Florida, Kentucky, Missouri, Ohio, South Carolina and Tennessee. Utah allows nonresident military spouses to use out-of-state licenses, and Virginia allows military spouses who leave the state to re-use the license upon their return.”

attorneys.

### **The Current Bar Admission Process Creates Barriers for Military Spouse Attorneys**

The Military Spouse JD Network (“MSJDN”), the leading network of military spouse attorneys, reports that less than a third of its members have full-time employment as attorneys and that approximately half of its members are underemployed in non-attorney positions such as paralegal work, working part-time, or unemployed and actively looking for work. MSJDN members report that licensing restrictions limit their ability to find full time employment as attorneys. These findings are consistent with national statistics regarding the proportionately higher rates of unemployment and underemployment among military spouses.

Current bar admission rules hinder the ability of military spouses who are attorneys to practice their profession. Bar admission rules do not provide a mechanism for admission of military spouses temporarily stationed in the jurisdiction or for those who move frequently, often with tours overseas. Military spouse attorneys struggle to become licensed and maintain their licenses for each jurisdiction in which they are transferred.

Although many jurisdictions have rules allowing attorneys to be admitted on motion or through reciprocity, those provisions are too limited for military spouse attorneys. Military spouse attorneys have trouble meeting the “previous practice” requirements when: they are recently admitted; their military spouse has been assigned overseas; they have breaks in employment between duty stations; they have held non-attorney or part-time positions; or they have been unable to find legal work at a duty station.

Since over ninety percent of military spouses are women, the current system also has a disproportionately negative impact on women.<sup>29</sup> Application of current bar admission regulations to military spouse attorneys disproportionately affects the number of women in the legal profession. To the extent these women are unable to become licensed as they move from state to state and overseas, they lose the ability to contribute to and participate in the legal profession. Therefore, allowing military spouse attorneys to maintain their careers supports diversity in the legal profession.

### **The Resolution**

Appropriate accommodations for military spouse attorneys benefit both the legal community and the military, while maintaining a high level of professionalism. This Resolution would allow military spouse attorneys to maintain their careers while continuing to support the servicemember and our country. By passing this Resolution, the ABA will stimulate discussion of this issue, which will in turn raise awareness on the part of courts, bar admission authorities, legal employers, and the legal community of the impact of military service on their families. These discussions will take place in

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<sup>29</sup> Military wives are more racially and ethnically diverse than civilian wives. RAND 2007 at xiv.

# 108

conjunction with the publicity from the White House Joining Forces initiative.<sup>30</sup>

Permitting qualified military spouse attorneys to maintain their legal practice is a significant benefit to their clients. As technology improves, more clients and employers want to retain military spouse attorneys who are transferred. Because of unauthorized practice of law regulations, in many jurisdictions, those attorneys cannot maintain their employment and continue to serve their clients when transferred to and residing in a new jurisdiction.<sup>31</sup> Thus, clients lose the benefit of being represented by their preferred attorney, who has invested time and resources on their behalf.

The skills developed by military spouse attorneys benefit their clients and the legal community. Military spouses understand the complexities of military life and are well suited to serve clients in the military, either through paid or volunteer work. Moreover, the insights gained from practicing law in multiple jurisdictions, the ability to adapt to a rapidly changing environment, and the capacity to learn quickly how to utilize local resources are just a few skills that benefit their clients. Military spouse attorneys are eager to contribute their unique skills and experiences and to utilize the professional education they worked so hard to attain.<sup>32</sup> Moreover, although it is somewhat non-traditional, legal employers in this uncertain economy may benefit from hiring attorneys without a long-term commitment. There are a number of ways that courts and bar admission authorities can ensure that military spouse attorneys have an opportunity to maintain their careers.

## 1. Bar Admission by Endorsement for Military Spouses

Bar admission by endorsement allows qualified military spouses who are in a jurisdiction due to military orders to be admitted without examination as long as they maintain an active license to practice law in one jurisdiction, are members in good standing in all jurisdictions where admitted and possess requisite character and fitness. To ensure public protection, these lawyers also must disclose in their applications for admission by endorsement whether they are currently subject to lawyer discipline or the subject of a pending disciplinary matter in any jurisdiction. They further must comply with all continuing legal education requirements and contribute to the client protection fund. Attorneys admitted by endorsement have the same rights and responsibilities, including compliance with continuing legal education and ethical obligations, as other members of the bar.

To protect the public, jurisdictions retain the right to impose discipline or to

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<sup>30</sup> Current publicity includes Stephen Spielberg, Oprah Winfrey, and Tom Hanks public service announcements encouraging support of military families, 2011, available at [www.whitehouse.gov/joiningforces/photo-video](http://www.whitehouse.gov/joiningforces/photo-video).

<sup>31</sup> See, e.g., State Bar of Arizona, *Unauthorized Practice of Law Committee Advisory Opinion 10-02*, February 2010, available at [www.azbar.org/media/75280/upl10-02.pdf](http://www.azbar.org/media/75280/upl10-02.pdf).

<sup>32</sup> See RAND 2004 at 87 (“personal fulfillment was the most frequently cited most important reason for working by spouses” working in professional occupations. “Half of lawyers and professors, ... viewed personal fulfillment as their primary work incentive.”).

revoke privileges to practice, as they would with any attorney admitted in the jurisdiction. Whether an attorney is admitted by examination, by motion based upon years of practice, or by endorsement, they would be subject to the same ethical rules and regulations. The ability to impose discipline would continue when the military spouse attorney moves to a new duty station, just as it would with any other attorney who relocates to another state.

Jurisdictions typically have exceptions to the previous practice requirement for admission. For example, many jurisdictions allow bar admission with no examination or previous practice requirements for full-time law school faculty members, clinical law professors and law students, in-house counsel, and non-profit legal service organization providers.

Military spouse attorneys admitted by endorsement would be required to comply with character and fitness regulations and would need to provide (1) proof of good standing in all jurisdictions in which the military spouse is admitted, (2) Department of Defense identification that the applicant is an accompanying dependent, and (3) acknowledgement of attorney disciplinary rules. The burden of determining who is a military dependent rests with the Department of Defense. License by endorsement remains in effect until the termination of the servicemember's military orders in the state, unless the follow on assignment is remote or unaccompanied; until the military spouse attorney is no longer defined as a dependent by the Department of Defense; or if the military spouse does not comply with the rules established by the state.

It is recommended that character and fitness be determined by a background check from the time the applicant was last admitted in another jurisdiction, to avoid a lengthy admission process. Because military spouses move frequently and have lived in many jurisdictions, often for short periods of time, traditional character and fitness forms may be exceedingly (and unnecessarily) lengthy.

## **2. Bar Application and Admission Procedures**

Courts and bar admission authorities can ease the burdens on military spouse attorneys by reviewing the jurisdiction's bar admission requirements to ensure they present no unreasonable obstacles to the practice of law for qualified military spouse attorneys.

The frequent transfers of military families may result in gaps in employment, multiple prior employers, and multiple prior residences. Courts and bar admission authorities should consider whether the reference requirements are appropriate for someone who has moved every two to three years, with tours overseas, and occasional tours of less than a year. For example, Judge Wirth, mentioned above, was required to provide five attorney references in each jurisdiction where admitted for more than six months as well as five character references. This required her to provide, and presumably required the bar to check, twenty-five references. In addition, military spouses may not have practiced in every jurisdiction in which they are admitted, either because of the challenging legal employment market or because the servicemember received new orders

# 108

reassigning them to another jurisdiction before completing the bar application process or before practicing.

Courts and bar admission authorities should consider whether there is any flexibility in the application deadline so that military families who receive orders after the application deadline are not delayed for six months waiting for the next bar exam. Servicemembers have no control over when transfer orders are issued and, in fact, those orders can be changed at any point. This system makes it impossible for attorneys to plan ahead and apply for bar examinations in a timely fashion. Flexibility should be permitted, where possible, to ensure that licensing and employment is not significantly delayed, especially given the limited amount of time the attorney is likely to be in the jurisdiction.

Gaps in employment and multiple employers or residences can be red flags for bar admission. Character and fitness reviewers should be educated on the frequency (and necessity) of transfers of military families, so that they do not unduly delay admission. Limiting character and fitness determinations to the time since the applicant was last admitted in another jurisdiction may help avoid a lengthy admission process and reduce the burden on the new jurisdiction.

The changes to the application and admission procedures will not impact the ability of the jurisdiction to ensure the protection to the public from unscrupulous attorneys. Military spouse attorneys will be subject to the same ethical standards, while providing provisions to address the mobility issues that come with military life. In addition, unlike attorneys who undergo character and fitness reviews only at the beginning of their careers, military spouse attorneys will go through them every time they transfer.

### 3. Mentorship Programs

Participation in mentorship programs is a valuable way military spouse attorneys connect with local members of the bar. Mentorship programs ensure that attorneys new to the jurisdiction are familiar with the nuances of local practice. In addition, for military spouse attorneys who may not know any attorneys in the jurisdiction, mentorships can help develop professional networks, which can be helpful in orienting the military spouse attorney to the jurisdiction's ethics rules as well as for career advancement. According to the 2004 RAND study, "Frequent long-distance moves make it difficult for military wives to develop the kinds of networks that can help them in the labor market."<sup>33</sup> Mentorship programs are crucial for the military spouse's professional development.

### 4. Reduced fees

Application and membership fees may be reduced for military spouse attorneys who are new to the jurisdiction or who no longer reside in the jurisdiction, but wish to

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<sup>33</sup> RAND 2004 at 19 (also noting that "employers may offer them lower salaries, choose not to hire them for key positions, or not invest in their training.").

retain bar membership there. As members of multiple bars, the costs of bar membership dues, on top of student loans, can be overwhelming, particularly for military spouse attorneys unable to find full time employment as lawyers. Bar membership, however, helps military spouse attorneys when they are new to the jurisdiction to learn about local practice and helps them to maintain their connection with the jurisdiction after being transferred.

### **Conclusion**

Through the adoption of this Resolution, the ABA articulates its support of military families within the profession by welcoming those attorneys relocating as a result of military orders, while at the same time maintaining a high standard of professionalism and proficiency. While the number of military spouse attorneys is relatively small,<sup>34</sup> this rule will not only improve the lives of that group but also open the doors for a growing number of attorney spouses in the future. Easing bar membership burdens will encourage a talented pool of independent, intelligent, and resourceful women and men to begin or continue their legal career. Both the legal community and our Armed Forces will benefit from allowing these individuals to practice in their chosen profession while supporting their spouse's commitment to our country.

Respectfully submitted,

Mary B. Cranston, Chair  
ABA Commission on Women in the Profession  
February 2012

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<sup>34</sup> Less than one percent of Americans serve in uniform. White House, *Strengthening Our Military Families: Meeting America's Commitment* (2011). It is estimated that ten percent of civilian military spouses have advanced degrees, of which a law degree is one of many. Defense Manpower Data Center 2008.

# 108

## GENERAL INFORMATION FORM

Submitting Entity: ABA Commission on Women in the Profession

Submitted By: Mary B. Cranston, Chair, Commission on Women in the Profession

1. Summary of Resolution.

The resolution urges state and territorial bar admission authorities to adopt rules, regulations, and procedures that accommodate the unique needs of military spouse attorneys, who move frequently in support of the nation's defense.

2. Approval by Submitting Entity.

The Commission on Women in the Profession has approved submission of this resolution at its August 6, 2011 business meeting

3. Has this or a similar resolution been submitted to the ABA House of Delegates or Board of Governors previously?

No

4. What existing Association policies are relevant to this Resolution and how would they be affected by its adoption?

The ABA House of Delegates has adopted many policies supporting and advancing the personal rights and interests of American servicemembers and their families, including the following: urging provision of civil legal assistance to low income military servicemembers and their dependents (8/90, 2/03, and 2/07); supporting federal legislation for advance medical directives prepared for members of the armed forces and their spouses to be recognized as lawful notwithstanding state and territorial law (8/94); protecting military homeowners, including spouses, by allowing them to maintain as a principle residence a home from which they are absent due to military orders (2/00); urging rules permitting children of deployed servicemembers to attend pre-deployment local public schools tuition free even when required to move outside the school district to reside with a temporary caretaker due to a parent's deployment (2/07); urging reexamination of the *Feres* doctrine whereby servicemembers are denied the benefits of the Federal Tort Claims Act (8/08); and ensuring participation in U.S. elections of military personnel and overseas civilians (2/11).

5. What urgency exists which requires action at this meeting of the House?

There is a national movement originating from the White House Joining Forces Initiative, the Department of Defense, and the Military Spouse JD Network to reduce licensing barriers for military spouses. By taking action at this meeting, the House will provide a timely framework for the States to address licensing issues for military spouse attorneys. Moreover, acting now demonstrates the ABA's leadership and continued support of military families.

6. Status of Legislation. (If applicable.)

See above.

7. Brief explanation regarding plans for implementation of the policy, if adopted by the House of Delegates.

The policy will be disseminated to the bar admission authorities and state bars of the 50 states with a letter from the appropriate ABA official urging that appropriate accommodations be adopted to support military families and enhance the career development of military spouse attorneys.

8. Cost to the Association. (Both direct and indirect costs.)

None.

9. Disclosure of Interest. (If applicable.)

Not applicable.

10. Referrals. (List entities to which the resolution has been referred, the date of referral and the response of each entity if known.)

The resolution with report was referred to the Section of State and Local Government Law on September, 26 2011 which has agreed to cosponsor; and to the Commission on Racial and Ethnic Diversity on October 28, 2011 which has agreed to cosponsor.

On November 4, 2011 the resolution with report was referred to the Section of Individual Rights and Responsibilities, which as agreed to cosponsor; the Section of Legal Education and Admission to the Bar; the Government and Public Sector Lawyers Division, which has agreed to cosponsor; the Young Lawyers Division; the Judicial Division; the Section of Litigation, which has agreed to cosponsor; the Standing Committee on Armed Forces Law, which has agreed to cosponsor; the Standing

# 108

Committee on Client Protection; the Standing Committee on Ethics and Professional Responsibility; the Standing Committee on Lawyers' Professional Liability; the Standing Committee on Legal Assistance for Military Personnel, which has agreed to cosponsor; the Standing Committee on Professional Discipline; the Hispanic National Bar Association; the National Association of Women Lawyers, which has agreed to cosponsor; the National Conference of Women's Bar Association, which has agreed to cosponsor; the National Bar Association, which has agreed to cosponsor; and the Conference of Chief Justices and Bar Activities and Services.

11. Contact Person. (Prior to the meeting. Please include name, address, telephone number and email address.)

Estelle H. Rogers (Washington DC) 202-337-3332,

[estellerogers@comcast.net](mailto:estellerogers@comcast.net)

Mary Reding (CA), 937-609-4549, [redingmary@yahoo.com](mailto:redingmary@yahoo.com)

Hon. Erin Wirth (DC), 202-523-5753, [briefcounsel@msn.com](mailto:briefcounsel@msn.com)

Veronica M. Muñoz (staff) Cell phone: 312-730-7026,

[veronica.munoz@americanbar.org](mailto:veronica.munoz@americanbar.org)

12. Contact Person. (Who will present the report to the House. Please include email address and cell phone number.)

Estelle H. Rogers

4580 Indian Rock Ter, NW

Washington, DC 20007

Cell Phone: 202-337-3332

[estellerogers@comcast.net](mailto:estellerogers@comcast.net)

## EXECUTIVE SUMMARY

### 1. Summary of the Resolution

The resolution urges state and territorial bar admission authorities to adopt rules, regulations, and procedures that accommodate the unique needs of military spouse attorneys, who move frequently in support of the nation's defense.

### 2. Summary of the Issue that the Resolution Addresses

Current bar admission rules hinder the ability of military spouses who are attorneys to practice their profession. Bar admission rules do not provide a mechanism for admission of military spouses temporarily stationed in the jurisdiction or for those who move frequently, often with tours overseas. Military spouse attorneys have unique burdens in their efforts to become licensed and maintain their licenses for each jurisdiction to which they are transferred.

### 3. Please Explain How the Proposed Policy Position will Address the Issue

Appropriate accommodations for military spouse attorneys benefit both the legal community and the military, while maintaining a high level of professionalism. This resolution would encourage licensing authorities to adopt policies that would allow military spouse attorneys to maintain their careers while continuing to support their servicemember spouses, as well as our country. By passing this resolution, the ABA will also stimulate discussion of this issue, which will in turn raise awareness on the part of bar admission authorities, legal employers, and the legal community of the impact of military service on their families.

### 4. Summary of Minority Views

The Commission is not aware of any formal opposition at this time.

SUPREME COURT OF GEORGIA  
OFFICE OF BAR ADMISSIONS

BOARD TO DETERMINE FITNESS  
OF BAR APPLICANTS

BOARD OF BAR EXAMINERS

JOHN C. SAMMON  
DIRECTOR OF ADMISSIONS

January 22, 2018

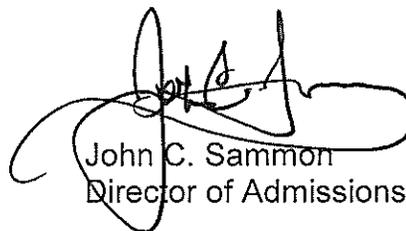
Ms, Harriet Blackburn O'Neal  
406 Cherry Hill Circle  
Leesville, LA 71446

Dear Ms. O'Neal:

At its meeting on January 13, 2018, the Board of Bar Examiners considered your petition for a waiver of Part C, Sections 2(b) and (e) of the Rules Governing Admission to the Practice of Law in Georgia. Pursuant to Part F, Section 4 of those Rules, the Board, upon petition by an applicant, is authorized to waive those Rules for good cause. The burden of proving good cause by clear and convincing evidence remains at all times upon the petitioning applicant.

Having carefully reviewed your petition for waiver, the Board has determined it does not meet the applicable standard. The Board strictly enforces the eligibility requirements for admission to practice law in Georgia, as adopted by the Supreme Court of Georgia, and in this instance, concluded there was insufficient evidence of good cause for a waiver. Your petition for waiver, therefore, has been denied.

Sincerely,



John C. Sammon  
Director of Admissions