

NEW JERSEY SUPREME COURT

AD HOC COMMITTEE
ON BAR ADMISSIONS
PUBLIC HEARING

Place: Rutgers Law School-Camden
217 North 5th Street
Camden, New Jersey

Date: March 14, 2002

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1 JUDGE WALLACE: All right. Seeing that we're
2 all here, we'll -- we'll get started. Welcome first of
3 all to the Supreme Court's Ad Hoc Committee on Bar
4 Admissions second public hearing.

5 My name is Johnny Wallace, Jr., and I am
6 Chair of this Committee. To my left is John J.
7 Francis, Jr., the Vice Chair.

8 MR. FRANCIS: Good morning.

9 MR. WALLACE: And then we have approximately
10 five other members present this morning, as well as
11 staff.

12 Our original announcement concerning the
13 public hearings requested comments concerning multi-
14 jurisdictional practice issues, the status and
15 oversight of in-house counsel who are not admitted in
16 New Jersey, admission of out-of-state attorneys on
17 motion, and requirements for permitting qualified
18 foreign-educated attorneys to take the New Jersey Bar
19 Examination.

20 Since our public announcement for our
21 hearings, and as a result of the Philadelphia Bar
22 Association's proposal to establish a shared-office
23 concept, whereby Pennsylvania attorneys who are members
24 of the New Jersey Bar would share an office concept,
25 our Supreme Court has requested that we consider an

1 assessment and recommendation on whether the current
2 bona fide office requirements in our court rules should
3 be retained, modified, or deleted.

4 The Supreme Court's Committee on the Rules of
5 Professional Conduct, chaired by Justice Pollack, is
6 also reviewing this same issue. At our first public
7 hearing, we had a number of comments dealing with the
8 bona fide office, and we would certainly welcome any
9 additional comments in that area today.

10 With that brief background, we are fortunate
11 to have Mr. James Landgraf of the New Jersey Bar this
12 morning, and we'll now entertain your comments, Mr.
13 Landgraf.

14 MR. LANDGRAF: Thank you, Judge Wallace,
15 members of the Committee. My name is James Landgraf,
16 I'm appearing here on behalf of the New Jersey State
17 Bar Association, primarily to address and raise --
18 describe further some of the thought process that went
19 into the report and recommendations on the multi-
20 jurisdictional practice element. I was also a member
21 of that committee that was developed by the State Bar
22 Association to investigate multi-jurisdictional
23 practice.

24 My understanding is the Bar Association has
25 submitted to the -- to this Committee its report of

1 March 2002, and as I say, I would like to briefly
2 address some of the thinking that went into it, and
3 some of the impact that we felt the rules regarding MJP
4 would have in New Jersey.

5 As a general summary of some of the major
6 points, the State Bar Association does recommend
7 amendments to model -- to Rule RPC 5.5 that we feel
8 would better define the unauthorized practice of law,
9 and would provide safe harbors for attorneys engaged in
10 certain aspect of what would qualify as MJP.

11 The Bar Association opposes admission to the
12 Bar on motion, we support the imposition of discipline
13 in a jurisdiction where an offense occurs, with the
14 support generally of reciprocal enforcement of that
15 discipline in the home jurisdiction. We do support the
16 Model ABA or the Model Pro Hac Vice Rule. We do
17 support the temporary practice here by foreign lawyers
18 who are associated, and we do point out associated with
19 local counsel, and, in general, we do support the in-
20 house counsel provisions that would provide for an in-
21 house counsel to be representing his or her employer in
22 the course of their employment.

23 Other recommendations are included within the
24 report. The State Bar Association, and specifically
25 the Committee on Multi-Jurisdictional Practice, frankly

1 did not take a position, and has not taken a position
2 yet on whether foreign-educated lawyers should be
3 eligible for Bar admission in New Jersey.

4 In our investigation, we did find that MJP is
5 a complex topic. It's raised a lot of issues, and it's
6 been nationally debated now. If we look at MPJ in its
7 broadest sense, what we found was, as a fact of life, a
8 lot of lawyers in New Jersey and in other states
9 routinely are engaged in one level or another of multi-
10 jurisdictional practice. But at the present time,
11 there are no rules, there are no guidelines telling an
12 attorney what -- where that attorney slips over the
13 border from acceptable multi-jurisdictional practice to
14 the unauthorized practice of law.

15 While there are some opinions, and some
16 generally-accepted customs in forms of practice, until
17 the ABA Commission and the ABA Ethics 2000 Commission
18 started looking into the topic, MPJ was kind of a quiet
19 little subculture that -- that existed, but nobody was
20 really dealing with it, and nobody was doing anything
21 about it, and nobody was trying to give anybody
22 guidance. So we do support, and we have all along
23 supported the Commission in their efforts to come up
24 with a draft rule, although, frankly, and if you've
25 compared the Commission's report with our report, we do

1 differ on a number of -- a number of points and in
2 approach.

3 Some of the -- when we were having our
4 meetings, it was a lot of time spent on what ifs, and
5 sort of going through situations. Example, if I have a
6 client who's in a workplace accident in Wilmington,
7 Delaware, I know if I'm going to represent that client
8 in court, I've got to go be admitted pro hac vice. But
9 prior to that, can I contact the insurance company?
10 Can I contact the employer? Can I contact witnesses?
11 Can I do any other fact investigation in Delaware
12 before I've gotten pro hac vice admitted?

13 Another example of where we're -- where we
14 saw concerns, if I am an expert in commercial shop --
15 shopping center leases, I get contacted by a national
16 entity that has leasehold situations in fifteen, 20
17 states, but nothing in New Jersey. They come to me to
18 ask me to do something in New Jersey, fine, I'm set
19 with that. They like my work, they ask me if I will
20 help -- help them as national counsel. Well, now I'm
21 outside New Jersey.

22 And then what, I think, most of -- most of
23 the practicing Bar would deem as, you know, in effect a
24 no brainer, but there's no rules governing it, if I
25 represent a New Jersey seller selling New Jersey

1 commercial property to a New Jersey buyer, and that New
2 Jersey buyer has a New York City bank who wants to have
3 the closing in their office in New York City, can --
4 can I go and can the New Jersey attorney representing
5 the buyer go up to New York City, and in effect
6 practice law at the -- at the closing?

7 There's a number of scenarios that,
8 particularly in the transactional practice area, where
9 we saw, you know, it happens. There is multi-
10 jurisdictional practice going on without regulation,
11 without any guidance, and, you know, this is -- it's a
12 difficult area to address.

13 Last week I understand Wayne Posden
14 (phonetic) testified or presented comments and advised
15 you that legal -- a number of legal associations and
16 the ABA are favoring a very broad multi-jurisdictional
17 practice rule that would give an attorney wide latitude
18 in crossing state rivers and other state lines in
19 representing temporary -- temporary representation of
20 clients where the lawyer is not licensed.

21 The New Jersey State Bar Association prefers
22 a much more conservative approach. On the one hand, we
23 believe that RPC 5.5 should be amended to provide for
24 instances of acceptable multi-jurisdictional practice,
25 and -- but to provide it also with guidance so that

1 attorneys have some idea as to where the boundary are.
2 We believe that 5.5 should not be so broad as to permit
3 any and all forms of MPJ. We do not believe that the
4 very broad and frankly ill-defined parameters that the
5 ABA Commission has placed on it, it would be in the
6 public interest, and we feel that it would serve both
7 the Bar and the judiciary very poorly.

8 MR. FRANCIS: Excuse me, Mr. Landgraf?

9 MR. LANDGRAF: Yes.

10 MR. FRANCIS: Could you give us some examples
11 of where you think the ABA proposal is too broad?

12 MR. LANDGRAF: All right. The ABA
13 proposal --

14 MR. FRANCIS: And let me throw in what I'm
15 seeking really is what language you would -- you would
16 suggest, if you don't use what they've adopted?

17 MR. LANDGRAF: Well, I mean, we have provided
18 some language in -- in ours. As an example, the ABA
19 pretty much the parameters that they have put in there
20 is that it is, as long as it is temporary, and does not
21 harm a client. And then beyond that, the ABA goes and
22 lists seven or eight examples of acceptable multi-
23 jurisdictional practice.

24 Our approach was to say, you practice where
25 you're licensed. But here are some areas -- these are

1 the areas where we will allow -- provide for safe
2 harbor. So there's was an all-inclusive here are some
3 examples. Ours was an approach of you practice where
4 you're licensed, but these -- in these areas it is
5 acceptable. Some of the additional I'll call it
6 requirements or limitations that we placed on it in
7 some of the transactional areas dealt with situations
8 where there would be at least some association with
9 local counsel, so that there -- there is no such
10 requirement in the ABA provision, at least across --
11 not across the board.

12 UNIDENTIFIED SPEAKER: When would you
13 associate with local counsel?

14 MR. LANDGRAF: When? If, you know, I'm
15 going to take out for a moment that scenario I gave
16 with the -- the bank closing that happens to be across
17 the river, or one of the rivers, but if I know that I
18 am going to be working on setting up a shopping center
19 lease for -- in Wisconsin, now I'm not licensed in
20 Wisconsin, I would associate with local counsel at that
21 time. Our feeling with the association with local
22 counsel is that it provides accessibility, it provides
23 accountability. While the ABA does include some
24 provisions as to the -- the unlicensed state, let's say
25 the Wisconsin attorney comes to New Jersey, would be

1 subject to discipline rulings by New Jersey, by the
2 Supreme Court in New Jersey, if there are violations of
3 the ethics obligations, and that those would then be
4 reciprocal back to Wisconsin.

5 We felt that there is greater accountability
6 to all concerned, to the client too, frankly, to the
7 adversary. We may not be talking in an adversarial
8 situation, but, you know, to all concerned there's more
9 accountability if there are attorneys on each side that
10 are licensed and subject to all of the obligations
11 involved in being a New Jersey attorney.

12 UNIDENTIFIED SPEAKER: In other words, if I
13 can say -- if we state in a more -- maybe a more
14 broadly-phrased manner, a transaction which one party
15 may be an out of state, in fact, let's say a national
16 business, but the transaction concerns only a -- a
17 transaction or a property, or a firm in New Jersey, you
18 would associate in New Jersey?

19 MR. LANDGRAF: If the national firm comes in
20 to do a New Jersey project, yes. That we suggested
21 that in those instances, you know, one of the safe
22 harbors would be if they associated with New Jersey
23 counsel, or with -- the association with local counsel
24 was one of the avenues that we felt it would, as I say,
25 it would add accountability, it would add

1 accessibility, and it would add frankly a greater level
2 of expertise, you know, within that jurisdiction. Now
3 I don't -- I don't --

4 JUDGE WALLACE: And would also, of course, it
5 would add another level of expense to the client.

6 MR. LANDGRAF: It could add a modest
7 additional level of expense.

8 JUDGE WALLACE: Well, but as I read the
9 proposal, the New Jersey attorney was to be involved
10 intimately, rather than just being a -- an office where
11 the out-of-state attorney could associate with someone.
12 There was supposed to be a meaningful representation, I
13 thought was the intent of --

14 MR. LANDGRAF: Under that --

15 JUDGE WALLACE: -- the vast proposal.

16 MR. LANDGRAF: Under that safe harbor, yes.
17 Yes. There was to be some meaningful involvement.
18 You know, again, you know, the -- I guess, I -- I could
19 look up in the books, and I can, you know, check on the
20 Internet, and if I go to Wisconsin, for example, I'm
21 picking on construction law, which is what I primarily
22 do, you know, I can figure out in general some of the
23 rules and how the laws in Wisconsin it would apply to
24 that. But am I best serving my client by doing it that
25 way, or am I also serving them by, you know, getting

1 that added expertise for the local practices,
2 procedures, rules, laws that are there? So I think --

3 JUDGE WALLACE: But in your example, if you
4 go out to Wisconsin to take a deposition for a New
5 Jersey matter, --

6 MR. LANDGRAF: Okay.

7 JUDGE WALLACE: -- would you envision that
8 the Wisconsin attorney would be seated at the table
9 with you taking the deposition?

10 MR. LANDGRAF: Okay. No that -- now that is
11 a -- that is another one of the safe harbors that we
12 have determined is appropriate.

13 JUDGE WALLACE: But you did not indicate that
14 you should be associated with counsel at that time? I
15 may have misread it. For some reason, I got the
16 impression that the association with local counsel
17 would entail even in the deposition situation. Maybe I
18 mis --

19 MR. LANDGRAF: No. I believe that the --
20 that our provision on litigation services, if I have a
21 New Jersey case, and, you know, Mr. Etish is my
22 adversary on the case, and one of the witnesses is from
23 Wisconsin, that, you know, a safe harbor would be that
24 we could certainly travel on this New Jersey case
25 outside the state to handle -- handle a deposition.

1 JUDGE WALLACE: Without being affiliated
2 with --

3 MR. LANDGRAF: Without associating with local
4 counsel, right.

5 JUDGE WALLACE: Fine. Okay.

6 MR. LANDGRAF: You know, that -- as I said,
7 we built in several -- about six or seven safe harbors
8 that we felt recognize the practicality realities of
9 practice these days.

10 MR. ETISH: I think the confusion, Judge
11 Wallace, is based on the reverse situation where two
12 New Jersey -- a New Jersey lawyer is retained to
13 represent a Wisconsin plaintiff, and he were to go out
14 to Wisconsin and get involved in a case, and ultimately
15 look to file suit, he would have to be admitted pro hac
16 vice out there, and engage local counsel out there.
17 But that -- that's the case he couldn't handle by
18 himself.

19 But in a New Jersey case, he could take
20 depositions anywhere across the country, as long as the
21 case was based in his home state where he was licensed,
22 and -- and it was subject to court supervision.

23 JUDGE WALLACE: All right.

24 MR. LANDGRAF: Going back, Mr. Francis, to
25 your -- your question as to some of the other limiting

1 language that we felt was appropriate, with -- with
2 respect to what Mr. Etish has just raised, again, that
3 we -- we felt that if it is a New Jersey case, if it is
4 a New Jersey client, or an existing client, we felt
5 that the term existing client was an important aspect
6 of it. That -- and to use another one of our safe
7 harbors, if I have a -- an existing client with an
8 arbitration clause in their contract, and that
9 arbitration clause calls for arbitration to occur in
10 Pennsylvania, but it's a New Jersey transaction, this
11 we felt, because the arbitration and mediation isn't
12 subject to the pro hac vice rules, but because it's a
13 New Jersey action, it just happens to be because of the
14 contract language that the arbitration is going to
15 happen across the -- across the river, that this would
16 be an appropriate safe harbor to allow.

17 And one of the -- one of the items was it was
18 an existing client.

19 MR. ETISH: And that arbitration would
20 proceed then without any court supervision or anything
21 else. I mean, if --

22 MR. LANDGRAF: Right.

23 MR. ETISH: -- just reverse it. If it's a
24 Pennsylvania client, arbitration clause, for whatever
25 reason the arbitration takes place in New Jersey,

1 Pennsylvania attorneys come in, there's no court
2 supervision, no pro hac vice admission, --

3 MR. LANDGRAF: Right.

4 MR. ETISH: -- nobody knows about. It's
5 under the radar screen.

6 MR. LANDGRAF: Uh-huh.

7 MR. ETISH: But permissible I take it you're
8 saying?

9 MR. LANDGRAF: It would be permissible on
10 with the two caveats that, one, it -- it was an
11 existing client, and, secondly, it's a transaction that
12 really is based in, you know, out of arising or related
13 to Pennsylvania. You know, --

14 MR. ETISH: The same thing if -- if there
15 were a personal injury matter, prior to law suit you
16 wanted to interview witnesses?

17 MR. LANDGRAF: Correct.

18 MR. ETISH: A Pennsylvania attorney could
19 come in in New Jersey and interview those witnesses,
20 gather documents?

21 MR. LANDGRAF: Yeah, yeah. Our feeling was
22 that before -- you know, obviously there is the formal
23 process of pro hac vice admission once suit is started.
24 Prior to suit being started, there is no such --

25 MR. ETISH: Right.

1 MR. LANDGRAF: -- mechanism, and certainly,
2 you know, it benefits the client, it benefits the
3 attorney, it benefits the entire legal system if you
4 know what you're doing before you file a lawsuit. And,
5 you know, to be able to do that preliminary
6 investigation, while in a broad sense obviously you're
7 practicing law, it's -- it is so related to that
8 existing representation.

9 MR. ETISH: Yeah. That takes me back to
10 language like reasonably related, and I don't know how
11 you can improve on that.

12 MR. LANDGRAF: How we can improve on it. We
13 didn't -- and we didn't really try to, I think, improve
14 on the reasonably related. We -- we added additional
15 qualifiers, which are, you know, the existing client
16 qualifier, the -- you know, the related to a
17 transaction arising out of or related to New Jersey,
18 or, you know, whichever the host state would be.
19 And, again, our feeling was that the ABA in simply
20 putting -- as long as it's temporary and doesn't harm
21 the client, we didn't feel that went far enough to
22 assure a competence, B, accessibility, and, C,
23 accountability.

24 UNIDENTIFIED SPEAKER: If I can interrupt,
25 two of the safe harbors deal with transactional, non-

1 litigation matters, and personally as a litigator, I
2 understand the litigation side of this much better than
3 the transactional side.

4 MR. LANDGRAF: The litigation side is a lot
5 easier to deal with.

6 UNIDENTIFIED SPEAKER: Right.

7 MR. LANDGRAF: Yeah.

8 UNIDENTIFIED SPEAKER: And it's much more
9 vexing as, I think, when you -- the way your report put
10 it to deal with the transactional issues. I don't -- I
11 understand that when you say an existing client, you
12 mean a pre-existing client, somebody who a
13 transactional lawyer has a prior relationship with? If
14 I'm wrong, stop me now. I mean, it's not a current
15 client, it's a pre-existing client.

16 So a new client who knocks on the door of a
17 New York lawyer, and wants to employ that lawyer to do
18 a transaction that relates to a jurisdiction in which
19 that lawyer is admitted, still can't handle that
20 matter, under your safe harbor, if that client had not
21 previously been a client of his firm. And if I'm
22 reading this right, and I may well not be, and I can't
23 quite understand why all of the weight is being put on
24 whether that is a pre-existing client, as opposed to a
25 new client, especially in light of the things you were

1 talking about of accessibility, accountability, why
2 would it matter whether the client is new or a
3 historical client of the firm?

4 MR. LANDGRAF: Yeah. Well, and here again we
5 are dealing with, you know, what is in the best --
6 we're trying to deal with what is in the best interest
7 of the client. If my client has a long-standing
8 relationship with me, and wants me to get involved in
9 trying to negotiate this construction contract or
10 whatever, that's one thing. It's another, we felt, to
11 by -- we were trying to avoid the situation where the
12 attorney would be tempted, maybe is the proper word, to
13 start soliciting these "temporary services and safe
14 harbor services."

15 You know, obviously, if the client -- you
16 know, if I am a nationally-renowned expert in a certain
17 area of the law, I'm going to have clients coming to me
18 from across the country asking me those issues, and
19 dealing with me on those issues. And it's, you know,
20 it's a very fine line as to when I start soliciting to
21 do that --

22 UNIDENTIFIED SPEAKER: Well, --

23 MR. LANDGRAF: -- and whether I can -- but,
24 again, that is one of the safe harbors. The other safe
25 harbor you have the overlay then of the local counsel

1 situation.

2 UNIDENTIFIED SPEAKER: Right. But it's not
3 just a -- I mean, going back to the -- the other safe
4 harbor though, I mean, I -- there is a lot of mobility
5 in the banking, financial, and transactional community,
6 and I don't think it's uncommon for a high-level
7 executive in the banking community, who would be an
8 existing client of the firm, to hire out-of-state
9 counsel to handle an array of matters, and then move to
10 a new bank or new financial institution, and want to,
11 in effect, employ the same attorney to do the same
12 tasks. And as I read your rule, the attorney would
13 now have to say, no. It wouldn't fit under that safe
14 harbor because that new employer of this key executive
15 is no -- was -- is not an -- an existing client of his
16 firm. Am I reading it right? I mean, --

17 MR. LANDGRAF: I'd probably have to confess
18 that you have found a loophole there in the -- in the
19 language. And, you know, again -- you know, in your
20 situation, you have an existing personal relationship,
21 but not necessarily an existing client relationship.

22 MR. LEWIN: Would it be any different, Mr.
23 Landgraf, if my personal relationship was based on the
24 fact that I played golf with the credit manager of
25 Chase Manhattan, who then relocates to Philadelphia,

1 and is now with The Citizen's Bank, and asks me to do
2 work for him, is that -- would that be a different
3 situation, versus working with him at one bank, moving
4 to a second bank?

5 MR. LANDGRAF: Well, I don't -- I frankly
6 don't see the major difference if you were doing --
7 in your situation you were doing work for Chase
8 Manhattan, when he was there the first time, and you're
9 now moving -- and he's now moved across the river?

10 MR. LEWIN: Well, no. My -- my example would
11 be I wasn't doing anything other than a social
12 relationship with him.

13 MR. LANDGRAF: Oh, okay.

14 MR. LEWIN: But I had an existing personal
15 relationship, I think that was your term, and then that
16 is now converted to a business relationship, is that
17 acceptable under your safe harbor?

18 MR. LANDGRAF: Under the safe harbor, I mean,
19 we use the term existing client. And, again, it was an
20 effort to try to, you know, deal with situations where,
21 again, we weren't trying -- we were trying to avoid the
22 fostering of going out there and advertising your safe
23 harbor abilities. You know, safe harbors exist, but,
24 you know, it's not something that we are looking at as
25 trying to create a marketing tool for an attorney.

1 And I -- I mean, frankly, as I -- as I was
2 looking at it when I was on the committee, and here
3 I'm -- I guess I'm getting in a more personal comment,
4 you know, I looked at it that, as long as the client
5 has engaged you, you know, prior, you know -- you had
6 the dealing with the client, the client engages you now
7 to handle this, you know, granted some of it may be
8 almost simultaneous, but, you know, between that safe
9 harbor and some of the others, it -- it probably would
10 allow the situation, Mr. Lewin, that you -- you
11 described. Does it fall clearly under that one safe
12 harbor, no, it doesn't. You know, again, it's not
13 a -- a pre-existing client, but it would fall probably
14 within one of the others.

15 Because, again, we -- we were not attempting,
16 and understand it was not our -- we were trying to
17 cross a fine -- or develop a line here. On the one
18 hand, we truly did not want to erect some protectionist
19 wall. We did not feel that that is appropriate for the
20 public. We didn't feel it was appropriate for the Bar.
21 On the other hand, we did not feel that it was
22 appropriate without any real -- what we could see any
23 real limits, parameters other than "temporary" and will
24 not hurt the client, will not harm the client to allow
25 a practice that allows attorneys to cross the state

1 lines, in effect without any real guidance, any real
2 limits, any real regulations.

3 Apart from the rule specifics, the State Bar
4 Association also has felt, and this was another
5 overriding thought, that MJP, multi-jurisdictional
6 practice involves a lot broader questions than -- that
7 impact the Bar, and the maintenance of traditions that
8 we feel have defined the profession. Things such as
9 pro bono service, participation in bar activities,
10 voluntary service to the judiciary, contributions to
11 IOLTA (phonetic) and the Client Security Funds, and so
12 forth. What impact is going to -- is going -- is there
13 going to be on those by a broad-based multi-
14 jurisdictional practice, is it going to help the Bar
15 provide better service to the public, or is it going to
16 hasten the -- what a lot see as a descent from a
17 profession to a commercial situation.

18 We don't yet know the answer to these. And
19 until we know the answer, we approach this that a
20 conservative approach that caution and restraint should
21 be the watch words.

22 Let me briefly address one other issue that I
23 understand the Committee has on its agenda, which is
24 the Bar -- admission to the Bar on motion. At least in
25 the forum presented by the ABA Commission, the State

1 Bar Association opposes this. We've heard arguments on
2 both sides, and there were quite a few discussions at
3 the committee meetings that we had. But at this point
4 in, you know, in comparing what exists with what the
5 ABA has proposed, we favor -- we still favor the
6 retention of the requirement of bar exam associated
7 skills and methods training.

8 UNIDENTIFIED SPEAKER: Excuse me?

9 MR. LANDGRAF: Yes.

10 UNIDENTIFIED SPEAKER: On Page 13 of your
11 report it says that the Commission recommends admission
12 on motion, and I was curious to know --

13 MR. LANDGRAF: Page 13.

14 UNIDENTIFIED SPEAKER: Am I misreading?

15 MR. LEWIN: That's the ABA Commission.

16 MR. LANDGRAF: That's the Commission.

17 UNIDENTIFIED SPEAKER: Oh, oh, I'm sorry.

18 MR. LANDGRAF: That's the Commission.

19 UNIDENTIFIED SPEAKER: Okay.

20 MR. LANDGRAF: On Page -- yeah, on Page 14 we
21 say, however.

22 UNIDENTIFIED SPEAKER: Okay. All right.
23 Okay.

24 JUDGE WALLACE: Well, in relation to that,
25 however, when you started your comments here, you

1 indicated as presently recommended you would oppose it?

2 MR. LANDGRAF: Yes.

3 JUDGE WALLACE: Is there a formulation that
4 you would -- or formula that you would agree to for the
5 admission on motion?

6 MR. LANDGRAF: Well, you know, we -- we've --
7 we've seen their, you know, their recommendations and
8 understand that there have been discussions that would
9 include obviously character review, personal
10 references, recommendations, specific practice
11 requirements. Different states, however, you know,
12 have different admission requirements. I know some
13 states, you know, still have a very short form bar exam
14 that, bang, you're in. You know, but our -- our
15 feeling at this stage is that it should still -- still
16 require -- you know, at this point we're still
17 suggesting it include the bar exam. But just as
18 important are the skills and methods and trainings that
19 the -- that we require here.

20 UNIDENTIFIED SPEAKER: Excuse me. What is
21 the relevance of the skills and methods course that's
22 administered to entering lawyers when you're talking
23 about a person who has been in practice five to seven
24 years as the ABA envisions?

25 MR. LANDGRAF: Well, I feel, you know, there

1 are elements of the -- I mean, the skills and methods
2 are -- there are elements that are specific to New
3 Jersey, in fact, a great deal of it is very specific to
4 New Jersey practice.

5 UNIDENTIFIED SPEAKER: Couldn't that be
6 accommodated by having say a full day or two-day course
7 on New Jersey practice that entering lawyers with
8 experience were required to take?

9 MR. LANDGRAF: In some format, yeah. I don't
10 know whether it would be a two-day, but we believe that
11 there should be something that may -- that brings that
12 Wisconsin, or South Dakota, or whatever attorney who
13 may have practiced for umpteen years in that state, to
14 be able to hold themselves out as, yes, I -- I am
15 authorized to practice on a full-time basis in New
16 Jersey, and I am now licensed to practice in New
17 Jersey. Or in my case, I am now licensed to practice
18 in Wisconsin --

19 MR. LEWIN: Mr. Landgraf, would you feel
20 any differently if I -- my practice is litigation,
21 commercial litigation, and I moved to be admitted
22 to -- in the jurisdiction of Wisconsin, staying with
23 Wisconsin, and they say, well, you have to take a
24 limited skills and methods, and you can waive it, you
25 don't have to take the bar exam, and I went out there

1 and went through some change of life and decided I want
2 to be come a criminal lawyer, never having practiced
3 criminal law before, would you think that my -- that
4 that would be an opportunity to represent oneself
5 favorably as a lawyer, never having practiced that kind
6 of law before, or would that create a problem for you?

7 MR. LANDGRAF: Well, I mean, we can, you
8 know, if you change that around -- if you change that
9 around, I mean, in New Jersey, where I am licensed, I
10 could suddenly decide -- I mean, I could go out and --

11 JUDGE WALLACE: Do the same thing.

12 MR. LANDGRAF: -- do the same thing.

13 JUDGE WALLACE: Yeah.

14 MR. LANDGRAF: I could walk into criminal
15 court and frankly in my case probably watch all my
16 clients go out the side door. You know, but, you know,
17 it's true --

18 MR. FRANCIS: You've got side doors in your
19 office? We don't have any of those.

20 MR. LANDGRAF: No, I say in the criminal
21 court.

22 MR. FRANCIS: Going off to jail.

23 MR. LANDGRAF: Yeah, that's the -- that's the
24 special route out.

25 No, I mean, certainly that, you know, once I

1 am licensed in the state, and I am practicing in the
2 state, yeah, there's no limitation on the area of law
3 that I can practice. I think though that, you know, I
4 have,, or a number of years ago I did show a level of
5 competence to practice in this state, and it simply
6 wasn't because I had practiced elsewhere under a
7 different set of laws.

8 At this point, we haven't seen -- you know,
9 the ABA, as we saw it, was kind of floating this
10 balloon. They haven't really fleshed it out. They
11 included some language as far as character reviews, and
12 language as far as character reviews, some language as
13 far as personal recommendations. And based on what we
14 saw as a fairly limited level of what would be required
15 for admission by motion, we didn't see enough. We
16 didn't see enough protections for client -- for
17 potential clients in the host state, for other -- for
18 the existing bar in the host state.

19 JUDGE PAYNE: Mr. Landgraf?

20 MR. LANDGRAF: Yes.

21 JUDGE PAYNE: Any of the recommendations that
22 I have seen in New Jersey would permit the admission by
23 motion simply to substitute for the bar exam. But that
24 every other requirement that exists for New Jersey
25 attorneys would exist for persons coming from other

1 states, including character and fitness being subject
2 to New Jersey discipline and also taking some form of a
3 skills and methods course. If those requirements
4 remained in place, would you have objections to
5 admission on motion?

6 MR. LANDGRAF: I think in that -- if we saw
7 the entire package, I think the -- you know, I can't
8 speak on that right now for the entire State Bar
9 Association, you know, but it is something -- it's
10 added some flesh to the bones, and it's something that
11 I think we would obviously go back and take another
12 look at to confirm that, yes, okay, it's now created a
13 mechanism that, you know, we can be assured that the
14 New Jersey population are going to -- you know, is
15 going to obtain counsel that's competent, accessible,
16 and accountable.

17 JUDGE PAYNE: If that were combined with the
18 bona fide office rule, would that give you the
19 assurances that you were looking for that there was a
20 commitment to the State and a -- and a degree of
21 accountability?

22 MR. LANDGRAF: Well, I think, you know, and
23 this is, you know, without trying to getting into the
24 bona fide office rule itself, you know, I think that
25 that does add that -- again, that level of

1 accessibility and the level of accountability. So when
2 you start to put the whole package together, it's
3 something that I think, yeah, the Bar Association will
4 take another hard look at. You know, until we saw an
5 entire package. You know, we did not when we were
6 asked -- this kind of came up after 5.5, when the
7 Commission, when they returned their report, they
8 included a recommendation of admission by motion, and
9 we were simply asked to respond to it. And what they
10 gave us -- well, I mean, I believe you've all seen it,
11 but what they gave us was a very generalized statement.
12 You know, we looked at it and said, that's not enough
13 for us to get behind, and so in that form the State Bar
14 Association opposes it, you know, --

15 MR. FRANCIS: Let me, if I may, pursue
16 this -- take Judge Payne's hypothetical, and I want to
17 go back to something you said earlier about pro bono
18 work, and Bar Association activity work, and so on,
19 assuming again you've got the safeguards that Judge
20 Payne described, you've got somebody who's admitted
21 five, actively practicing law for five out of the last
22 eight years, bona fide office, reciprocity, character
23 committee review, skills and methods, all of those
24 things built in, if the Supreme Court were to adopt
25 that kind of a rule, would you think there would be a

1 fall off in pro bono work by those attorneys admitted
2 on motion, a fall off in Bar Association participation,
3 active Bar Association participation, Supreme Court
4 committees, and the like?

5 MR. LANDGRAF: Well, --

6 MR. FRANCIS: I know the Bar Association has
7 not taken a position on those kind of things.

8 MR. LANDGRAF: Right.

9 MR. FRANCIS: It hasn't been stressed, --

10 MR. LANDGRAF: I would --

11 MR. FRANCIS: -- but let me just get your own
12 feelings.

13 MR. LANDGRAF: Yeah. And from my own
14 feelings, I mean, it would be a situation, and
15 let's -- let's just flip it around again, and put me
16 out in Wisconsin, am I going to get involved in pro
17 bono work in Wisconsin now that I've been admitted on
18 motion, but, you know, I'm here for the most part,
19 even if I, you know, somehow establish a bona -- I
20 mean, if -- it's not going to happen.

21 MR. FRANCIS: I think --

22 MR. LANDGRAF: It's not going to happen.

23 MR. FRANCIS: I think the --

24 MR. LANDGRAF: Now if I decide to move to
25 Wisconsin under my newly -- with my fresh new license

1 that I've obtained by motion, in that case -- and, you
2 know, because Wisconsin now has bona fide office rule,
3 and that sort of thing, and to practice there I
4 actually have to be there; it would be nice, yeah, now
5 I'm becoming a Wisconsin attorney.

6 MR. FRANCIS: Yeah.

7 MR. LANDGRAF: You know, I am no longer --

8 MR. FRANCIS: That's not the hypothetical
9 though.

10 MR. LANDGRAF: Yeah.

11 MR. FRANCIS: I really I want to -- I want to
12 have somebody, hypothetically, somebody coming into New
13 Jersey, and again it's easier for me to work with as a
14 litigator --

15 MR. LANDGRAF: Okay. Bring him in, okay.

16 MR. FRANCIS: -- hypothetical coming in, but
17 admitted by motion, would that person be as active as
18 another New Jersey, regularly admitted; passed the Bar
19 exam, New Jersey attorney? Again, if you got a
20 litigator, maybe he wants to get to know his colleagues
21 in New Jersey, maybe he wants to get to know the judges
22 before whom he's appearing, and so he or she is active
23 in the Bar, or does pro bono work, or not, maybe not,
24 maybe they just go back to New York or Pennsylvania and
25 forget about New Jersey. I don't know the answer to

1 that. I'm --

2 MR. LANDGRAF: And we don't either. I don't
3 either. I mean, it's going to -- you know, it would
4 depend on the -- I think that becomes that individual
5 and what they really hope to accomplish by becoming
6 licensed by motion in New Jersey. If they are using it
7 as simply, I am -- I'm really a Pennsylvania, or I'm
8 really a New York attorney, and I just want another --
9 another backyard here. Or they're probably not going
10 to become anymore active than they would have been, you
11 know, if they were admitted -- passed the -- took the
12 Bar exam, et cetera.

13 MR. FRANCIS: Does the State Bar have any
14 statistics on the percentage of its members who are
15 "active"?

16 MR. LANDGRAF: I mean, they certainly have
17 rosters of committee members and that sort of thing,
18 but, you know, I don't know that, you know, if -- if
19 I'm on X committee, one of the standing -- the Civil
20 Practice Committee, for example, you know, what's
21 active, I don't know what's -- what's active.

22 MR. ETISH: If you're saying that if there's
23 50,000 members to the State Bar Association, and I
24 don't even know if I'm close to that number, are there
25 more than a thousand people that are active in all the

1 committees and all the activities, it's probably about
2 the right number, and it's probably the same in the
3 local Bar Association, Mr. Hagner can talk to that from
4 Camden County, but there's probably, you know, two or
5 three, or five percent of people who are actively
6 participate in, you know, the Habitat for Humanity, the
7 Christmas party, the public benefits, all the good
8 things that the Bar Associations do, there's probably a
9 very small percentage, whether it be the State Bar or
10 the American Bar, for that matter. But I don't think
11 there are any active statistics --

12 JUDGE WALLACE: Yeah.

13 MR. ETISH: -- but they're probably on the
14 low side than on the high side.

15 JUDGE WALLACE: But how about just membership
16 in the Bar, do you have statistics?

17 MR. ETISH: Oh, I think there's absolutely
18 numbers to that extent.

19 MR. LANDGRAF: Yeah, there -- yeah.

20 MR. ETISH: I think the State Bar is about --
21 and I hate to -- don't quote me on this, about 60
22 percent of members of the -- of the -- registered
23 members at the Bar about 60 percent of them belong to
24 the State Bar, and I think the -- the memberships in
25 the local Bar Associations are higher than that.

1 Mr. Hagner, you may be able to comment when
2 your -- it's your turn.

3 MR. LANDGRAF: And last year I was President
4 of the Burlington County Bar Association, and I think
5 it probably was higher than 60 percent. Although, if
6 you want to look at that in sort of microcosm, frankly,
7 it was the attorneys who more or less homegrown, that
8 is, you know, their whole -- their practice is
9 primarily based in that county, tend to be the more
10 active members. You know, the Philadelphia firm that
11 has, you know, has a substantial office, there's a much
12 lesser involvement of those attorneys in that local
13 Bar. Or the North Jersey office, the firm that has an
14 office, a satellite office in Marlton or Evesham I
15 should say it less -- those people are going to be less
16 likely to be active than are the ones who, you know,
17 this is their county.

18 And, frankly, I think that goes for the pro
19 bono work too, other than the court-appointed pro bono
20 work, but for the voluntary pro bono work, it's usually
21 the ones who are there and have been there, you know,
22 and that -- that geographical area is their -- is their
23 primary area.

24 Our report has given, you know, a lot more
25 detail than what certainly I can give in -- in these

1 few minutes. And, again, I just need -- want to
2 conclude by pointing out we had a number of committee
3 meetings before we made our recommendations to the
4 State Bar, which accepted our recommendations. And,
5 you know, not every issue was a unanimous issue. There
6 was some -- you know, and there was a lot of gee, what
7 if, and a lot of putting this scenario, that scenario.
8 We were trying to, as I said before, walk a fine line
9 between recognizing what practice -- what the practice
10 of law today is, and what are commonly experienced
11 practices. At the same time, you know, recognizing,
12 and I know New Jersey gets labeled as being this
13 protectionist entity, you know, we did not try to do
14 that. We, in fact, you know, did not even look at it
15 that way because it's one of these what comes around
16 goes around type of things that, you know, there were a
17 number of members on the committee who they'd just
18 assume -- they want to have that opportunity to go to
19 other states and to do what attorneys do in standard
20 practice. So we were not trying to do that, but at the
21 same time it's -- we felt baby steps were better than
22 just jumping into it. We felt that the ABA Commission
23 report was too much too soon without satisfactory
24 parameters and satisfactory defining limitations.

25 Again, they looked at it as, you know, our

1 lists of what our practices pretty much run parallel
2 with each other. Ours are these are your safe harbors,
3 theirs are, they are just examples of any number of
4 things that you can do. But, again, we were trying to
5 do it so that we provided protections for competence,
6 accessibility, accountability.

7 I thank you for your time --

8 JUDGE WALLACE: Mr. Landgraf?

9 MR. LANDGRAF: -- in listening to my remarks,
10 and I'm open for any additional questions.

11 JUDGE WALLACE: All right. You've been
12 very -- your information was very helpful to us this
13 morning, and I know that the New Jersey Bar has not had
14 an opportunity, as far as this committee is concerned,
15 to address the bona fide office aspect of it, but you
16 may have taken a position previously. Are you aware of
17 whether or not the Bar has taken a position on the bona
18 fide office?

19 MR. LANDGRAF: Yeah.

20 JUDGE WALLACE: The Philadelphia --

21 MR. LANDGRAF: I mean, the Bar certainly has
22 taken, yeah, --

23 JUDGE WALLACE: Yes. Do you know what --

24 MR. LANDGRAF: -- the positions with
25 regard -- that are of record with the courts in all the

1 newspapers with regard to the bona fide office.

2 JUDGE WALLACE: And that was previously
3 submitted when that was being addressed by the Supreme
4 Court?

5 MR. LANDGRAF: I believe -- I believe that
6 that was submitted at length before the Supreme Court.

7 JUDGE WALLACE: On other thing, on the
8 admission on motion, you really didn't focus on it,
9 other than to have a general rejection of the proposal
10 as set forth. Does the Bar intend to formulate its own
11 proposal that it would be acceptable to the Bar, or you
12 were not going to follow up on that?

13 MR. LANDGRAF: There has been nothing
14 scheduled at this point as far as further -- further
15 analysis of that.

16 JUDGE WALLACE: Okay. All right.

17 MR. LANDGRAF: You know, so I can't say, you
18 know, whether the Bar leadership is going to suggest
19 to, whether it's the MJP Committee or a separate
20 committee, to look into that further.

21 JUDGE WALLACE: All right.

22 MR. LANDGRAF: I don't have that information.

23 JUDGE CUFF: Judge Wallace?

24 JUDGE WALLACE: Yes, Judge Cuff.

25 JUDGE CUFF: You had mentioned that you had

1 not taken a position on foreign-educated attorneys.
2 Will you be considering that?

3 MR. LANDGRAF: Again, I have to say that that
4 is again something that it -- it came out at the very
5 end, because it suddenly appeared in that November
6 Commission report.

7 JUDGE CUFF: Uh-huh.

8 MR. LANDGRAF: We were -- we were asked to
9 comment on it, and because of the shortness of time
10 that we had received the December -- the November
11 report, and our need to address the things that we were
12 already dealing with, we didn't have time to address
13 it. And, again, I have not heard that, at least the
14 MJP Committee, has been charged with going back to the
15 drawing board on that.

16 Mr. Etish, I don't know if there is anything
17 scheduled for that or not?

18 MR. ETISH: I think that's accurate. I think
19 these committees were going on separate paths, and we
20 were assuming that the Supreme Court Committee was
21 working on that. No one had asked us for a position on
22 that. We certainly can get to this Committee position
23 papers on both those -- those topics. And I would
24 recommend that to Bar leadership.

25 JUDGE CUFF: And am I correct that when

1 you're considering MJP, you're -- you're -- you
2 contemplate that the pro hac vice rules would stay in
3 place for litigation purposes?

4 MR. LANDGRAF: Correct.

5 JUDGE CUFF: Have you given any consideration
6 to the distinction then that would happen for people
7 coming in on transactional work and some of these safe
8 harbors who do not have the restrictions that are
9 imposed on them, when they go through pro hac vice
10 admission, including the payment of the client's
11 security fund, and -- and how do we justify that
12 distinction?

13 MR. ETISH: Well, if I can comment, I think
14 it was discussed in length, and I'm not sure if Mr.
15 Landgraf was at the meeting. The question was,
16 everyone on the committee was opposed to having some
17 type of licenser registration, so every time that you
18 went to New Jersey to close a -- a mortgage, you had to
19 register with a county clerk, with a clerk of the
20 Supreme Court, if this became a horrible inconvenience
21 and an imposition of somewhat unnecessary costs.

22 In a perfect world, I think we would like to
23 require that. But, you know, if you are a Pennsylvania
24 lawyer coming into New Jersey ten times a month to
25 close a loan, would you have to register ten times? We

1 felt that it would be a burden on interstate commerce.
2 It probably would be a good thing for clients, but we
3 felt it would be totally unenforceable.

4 At least with a -- with a pending piece of
5 litigation, there is a court record, there are fees
6 that are -- that are ordinarily -- and there's an
7 administrative function that surrounds it, so you
8 can -- you can follow the pro hac vice application.
9 With transaction work, it would be very difficult, if
10 not impossible, to follow that without having all kinds
11 of low-flying aircraft under the radar, which as they
12 exist today.

13 But that's the practical problem that -- that
14 forces us to say, we don't think that MJP in the
15 transactional basis should go forward unfettered; there
16 would have to be certain limitations because otherwise,
17 you know, all bets are off.

18 JUDGE CUFF: I tend to agree with you,
19 frankly, on the enforcement issue. I'm contemplating,
20 however, that some of the people who -- who might sit
21 on our local disciplinary boards who will probably tell
22 you that most of their problems come through
23 transactional work, and we will not -- those clients
24 then may not have that -- that refuge in client
25 security fund.

1 MR. LANDGRAF: And I think I mentioned
2 earlier that this was one of the, you know, when
3 we -- when we went through the litany of pro bono
4 concerns, IOLTA, client security fund, at this point,
5 again, we don't know how to -- we couldn't think of a
6 reasonable way that it could be regulated, a reasonable
7 way it could be, you know, it would be an
8 administrative nightmare if you're the County Clerk or
9 if you're the Supreme Court Clerk, whoever it is who,
10 you know, draws the short straw, --

11 MR. ETISH: Or the long straw.

12 MR. LANDGRAF: -- or the long straw,
13 whichever, but -- and we did in our -- in our
14 recommendation with regard to Rule 5.5, and we did take
15 it another step further, and now the ABA addressed it a
16 little bit with their you're going to, you know, the
17 whole -- the jurisdiction where the practice is
18 occurring will have disciplinary abilities, and we did
19 include that for somebody, regardless of whether
20 they're coming in under the safe harbor or pro hac vice,
21 they are subject to the Rules of Professional Conduct
22 and disciplinary authority of our Supreme Court, and
23 that they are consenting to the Clerk of the Supreme
24 Court for acceptance of process.

25 We tried to include what we could, you know,

1 in, you know, providing some teeth to the
2 accountability situation.

3 Any other questions?

4 JUDGE WALLACE: Anyone else?

5 Thank you very much, Mr. Landgraf.

6 MR. LANDGRAF: Okay.

7 JUDGE WALLACE: It's been sometime since
8 we've had a chance to converse, and I'm very happy to
9 see you this morning.

10 MR. LANDGRAF: Thank you, Your Honor. Glad
11 to have you back down this -- this side of Trenton.

12 JUDGE WALLACE: Well, I normally stay this
13 side of Trenton, except for one -- one day of the week.

14 MR. LANDGRAF: Okay. Thank you.

15 JUDGE WALLACE: Just a different location
16 from Woodbury. That's all.

17 MR. LANDGRAF: Okay. Thank you all.

18 JUDGE WALLACE: Thank you.

19 Our next speaker this morning from the Camden
20 County Bar Association, in lieu of Mr. Culver
21 (phonetic), Mr. Tom Hagner.

22 Mr. Hagner.

23 MR. HAGNER: Thank you, Your Honor.

24 Some 25 years ago when I started practicing I
25 remember an incident, a couple came into the office and

1 they had just been transferred over here from the
2 United Kingdom, and they needed to buy a house; they
3 were in the process of buying a house, so they came in
4 and -- to our law firm for some representation. And
5 they worked for a big company, also from the United
6 Kingdom, the Hawker Sidley Group (phonetic), and they
7 were setting up a subsidiary over here. And the
8 employer had arranged for them to get a mortgage
9 through the Barkleys Bank (phonetic), which they did.
10 And the Barkleys Bank wanted to use their Wall Street
11 lawyers to do the documents, and they wanted to have
12 the closing up at their Wall Street law office, which
13 is where we went.

14 And I remember a lot of things about that
15 day. I remember eating breakfast in the World Trade
16 Center. I remember the stunning view of the Statute of
17 Liberty from the -- from the office, and I remember
18 that all the documents were wrong that were done by the
19 Wall Street lawyer. And I remember sitting around for
20 an hour or so while they were done again.

21 And a lot of what happened that day seems to
22 bear upon this issue. I remember me practicing law in
23 New York that day, within the geographic confines of
24 New York State that day, completely unaware of whether
25 that was legal or illegal, ethical or unethical. And

1 it's an interesting -- it's interesting to address
2 these conceptual issues and these abstract issues from
3 the standpoint of a real-life experience.

4 Our Bar Association does recognize the need
5 for a modernization of the -- of the unauthorized
6 practice of law rules, and also recognizes a strong
7 need for uniformity. But we believe that the -- that
8 the guiding principal and the standard should be
9 excellent lawyering, not acceptable lawyering. And a
10 lot of the arguments that I've seen, and even some of
11 the language contained in the -- in the ABA proposal,
12 and I'll address the question that you asked Mr.
13 Landgraf, to me seems to be permissive language. And
14 we look at the -- and we look at these proposed changes
15 to the UPL as changes that are borne of necessity in
16 order to serve the public, not changes that are borne
17 of convenience for the lawyer.

18 When we see the language of the ABA that says
19 that it's okay to cross boundaries, as long as you do
20 not create an unreasonable risk to the interests of the
21 public, I find that to be too permissive and
22 inconsistent with what we consider to be the driving
23 force for the rule change, which is something that's
24 necessitated in order to best serve the public. And
25 that is why we feel that the proposals and the

1 proposal, and the suggested changes by the New Jersey
2 State Bar Association, are appropriate because
3 conceptually what they're doing is they're carving out
4 these safe harbors, which is what they see as necessary
5 so that -- because without them, the public is dis-
6 served by an interruption in legal services, or an
7 unnecessary expense, or otherwise principles that serve
8 as an impediment to the smooth, orderly, and efficient
9 practice of law, and the delivery of legal services to
10 the public.

11 The language in the ABA proposal to me seems
12 more designed to make it convenient for an attorney
13 that wishes to practice on a multi-jurisdictional basis
14 to do so, without due regard to the interest of the
15 public. And, again, our standard in New Jersey has a
16 strong commitment to excellence in lawyering, and we
17 have a strong CLE program. We have trial
18 certifications, other specialty certifications, and all
19 of these things are designed not so that lawyers are
20 able to satisfy a minimal standard of competence, but
21 rather so that they can achieve a highest level of
22 competence.

23 MR. FRANCIS: But isn't that all the Bar exam
24 does is test minimum competence?

25 MR. HAGNER: The Bar exam?

1 MR. FRANCIS: Right.

2 MR. HAGNER: Yes. Well, I don't know, I had
3 a pretty -- I didn't feel too good when I left the
4 room, but although I did pass.

5 MR. FRANCIS: It was a horrible experience
6 for any of us, but I think if you -- if you talk to the
7 Bar examiners, or you talk to the Supreme Court, they
8 think it's a test of minimal competence.

9 MR. HAGNER: It is. It is, but, I think, it
10 has to be. I suppose, because you're a -- you're a new
11 admittee, and I think that it would be unrealistic or
12 even impossible to -- to achieve the higher level of
13 competence without actually practicing. I don't know
14 what else -- I don't know what else -- what other
15 function a Bar exam -- a Bar exam can serve.

16 MR. FRANCIS: So if you were to dispense with
17 the Bar exam, have you -- have you really eroded what
18 you think is a -- is a striving for excellence in the
19 practice?

20 MR. HAGNER: Are we speaking of the admission
21 by motion now?

22 MR. FRANCIS: Right. Or -- well, I -- yeah,
23 I was, but you could -- you could take it as a revision
24 of Rule 5.5 as well. You're allowing attorneys to come
25 in under one rubric or another --

1 MR. HAGNER: Right.

2 MR. FRANCIS: -- to come in who have not
3 passed the New Jersey Bar Exam.

4 MR. HAGNER: That's true.

5 MR. FRANCIS: But if all that Bar exam does
6 for you is achieve minimal competence, how much have
7 you lost by opening it up?

8 MR. HAGNER: Our committee has not actually
9 addressed the issue of -- of the admission by motion.
10 I've spoken about it. If the only thing -- if the
11 motion was merely a substitute for the taking of the
12 Bar exam, I'm not sure that I can see the justification
13 for not permitting that substitute, to be perfectly
14 honest with you. I think -- I think the -- and I've
15 discussed this with people, the -- the paradox, I
16 believe, of the -- of achieving competence, and in the
17 practice of law is that you actually become more and
18 more ignorant of many things, and more and more
19 conversant with a small amount of things, and I've had
20 this discussion with Mr. Etish, one of my partners, and
21 others, which is I know a lot less today as a -- as a
22 highly experienced certified trial attorney than I did
23 20 years ago, when I bounced from real estate closing
24 to bankruptcy court to matrimonial court, et cetera. I
25 just I don't do much anymore except a small amount of

1 things, so -- so that is a paradox within the practice.

2 And I did have that reflection when I looked
3 at the requirements of a five to -- a five to eight
4 year or five to seven year, I'm not sure what that
5 achieves. I had a partner once that said that you
6 don't really become the lawyer you are for about ten
7 years or 12 years. But we don't have -- there's no
8 such thing as a limited license, so if a person were to
9 be admitted, then they would be permitted to do just
10 about anything. But then, again, even if they're here
11 already, they can do that.

12 So I personally don't see where a motion is a
13 poor substitute. I remember a year after I was
14 practicing, I -- I was going to take the Pennsylvania
15 Bar a year after I took the New Jersey Bar, and after
16 trying to relearn the rule against perpetuities and the
17 differences between manslaughter and mayhem I gave up.
18 I said who needs it, so I stayed here. So that's my
19 thought on that. But our committee hasn't actually
20 addressed that point.

21 I just -- I think the one thing about the
22 ABA, and I just came back from Chicago to the Bar
23 Leadership Conference, and I spent a lot of time with
24 some ABA people out there. Sometimes they get accused
25 of being a big firm organization, and they -- and

1 they -- and they say they're not, and I believe they're
2 not intentionally, but -- but that having been said, I
3 still believe that they see things through the lenses
4 of the highly experienced, highly qualified attorney.

5 And, I think, the danger that I see in making
6 sweeping changes is that -- that we have to deal with
7 the reality that -- that these changes and these rules
8 that will apply will apply to everyone. They won't
9 just apply to the highly-experienced super specialist
10 in a large law firm whose -- who could probably
11 practice everywhere, anytime, anyplace very competently
12 with -- without regard to the jurisdictional
13 boundaries. I think we have to realize that these
14 rules will apply to everyone. And I think in
15 addressing the rule changes that are necessitated, I
16 think we have to look -- go down and look at -- at how
17 it's going to work its way up, and I -- because
18 otherwise the public is going to be disserved by -- by
19 receiving poor service.

20 And I'm a litigator also, that's why I --
21 again, I see things through the eyes of a litigator,
22 and I don't think that the poor service that we're --
23 that we have to be concerned about is simply
24 malpractice. Something that results in malpractice can
25 sometimes be -- often rectified by -- by a claim, a

1 liability claim.

2 I think what I see in terms of people that I
3 deal with that are not conversant with local rules is a
4 more subtle disservice to the public in the form of
5 inefficiency, additional cost, running from pillar to
6 post, as it were, to try to -- to try to understand the
7 local rules, be it best practices or otherwise, and
8 these things can add a lot of cost to litigation, they
9 can -- or disservice to the Court, to the adversary,
10 and to the clients, but they never show up, so to
11 speak, on the ledger because they're really too subtle,
12 but they're -- but they're -- but they're there, and
13 they're more than just annoying, they're actually
14 expensive.

15 MR. ETISH: Can you give us a specific
16 example of a dealing that you've have with an out-of-
17 state lawyer, how that you or your clients were
18 inconvenienced, anything that you can point to?

19 MR. HAGNER: I can't think of anything
20 specific, other than lately an inexperience with the
21 Best Practices Rules, which -- which becomes a problem,
22 and just resulting in a disjointed, chaotic litigation
23 scenario. Not familiar with the rule that not
24 instructing a witness not to answer in depositions,
25 different things like that that you have to argue about

1 that they really shouldn't be the subject of an
2 argument.

3 JUDGE WALLACE: Mr. Hagner, I notice that the
4 proposal for the Camden County Bar only makes it
5 recommendation if all the other jurisdictions were to
6 approve a similar type of rule.

7 MR. HAGNER: That's correct.

8 JUDGE WALLACE: How would you propose to --
9 just some adoption that would be contingent upon all
10 other jurisdictions?

11 MR. HAGNER: Yeah. I think one of the chief
12 problems today is -- is uncertainty, and an unevenness
13 of enforcement. And one of the primary reasons why a
14 change is needed is -- is uniformity. So to -- to
15 agree to something that -- that is going to be
16 isolated, and not uniform, to me would be to be
17 achieving very little. So I somehow, and I don't
18 know -- mechanically, I have a difficult time
19 conceptualizing how this could be implemented, but,
20 yes, I do believe that -- that if there's going to be a
21 change, it should be, if not -- if not unanimous among
22 all the states, at least a super majority as the New
23 Jersey State Bar has termed it. I don't know how to do
24 that, but -- but without it, I think it would be -- it
25 would be somewhat meaningless because you would still

1 know -- you would still not know what -- what you could
2 do or could not do, depending on what state you were
3 going to.

4 MR. FRANCIS: Suppose rather than adopt the
5 ABA proposed 5.5 modification, you were to admit on
6 motion with -- with, again, strict requirements.
7 Somebody has been practicing for at least five years,
8 actively practicing five out of the last eight years,
9 reciprocity, character committee review, bona fide
10 office, then he goes through a process of review, and
11 he's admitted -- he or she is admitted on motion, that
12 would give you certainty and uniformity presumably,
13 rather than worrying about what's temporary and what's
14 an unreasonable risk to the interest of the client.

15 MR. HAGNER: I feel uncomfortable responding
16 other than on a personal basis because --

17 MR. FRANCIS: Yeah. And I'm speaking
18 personally too.

19 MR. HAGNER: -- our committee hasn't actually
20 talked about it. I personally don't -- again, I don't
21 see the -- the relevance of the Bar exam to me anymore.
22 I've been practicing all these years, and a lot of --
23 a lot of things that was subject to it, I don't
24 even -- laws that don't even exist anymore. Law is
25 ever changing, and -- and keeping current is really

1 what one needs to do. So I haven't addressed it or
2 even studied it, but I can't imagine why a motion
3 properly administered isn't a substitute.

4 The one question I did have on the ABA
5 proposal was the way I read it, it seems like the
6 motion would be automatically granted if the criteria
7 that are specified as factors are met. That was
8 confusing to me. I didn't know whether that was the
9 case or not the case. I would want -- my own
10 viewpoint, when I was reading it, was I would like to
11 see some judicial discretion in the granting of the
12 motion, and -- and not have the motion to be rubber
13 stamped if Sub-paragraphs A through H, or whatever sub-
14 paragraphs were -- were mechanically -- were
15 mechanically met. I still think there -- there would
16 be a need for some individualized treatment of the
17 motion in order to make sure that the applicant that
18 has the qualifications to practice in this state. I
19 don't know what standard I would employ, but I -- I
20 would not want to see a -- simply a rubber stamp sort
21 of approach because of a certain mechanistic formula.

22 JUDGE WALLACE: Any other questions?

23 MR. ETISH: Mr. Hagner?

24 Just one more.

25 JUDGE WALLACE: Go ahead, sure.

1 MR. ETISH: Mr. Hagner, does the -- has the
2 Camden County Bar taken any formal position with regard
3 to bona fide office? Have they been involved in
4 litigation before the Supreme Court, or submitted any
5 amicus curiae briefs or anything?

6 MR. HAGNER: Not recently, no. I think the
7 last time that it was done was probably a year ago, I
8 believe, if I'm not mistaken.

9 MR. ETISH: Okay.

10 MR. HAGNER: When the issue arose about the
11 community office in Camden for -- for the Philadelphia
12 Bar Association.

13 MR. ETISH: And at that time, was the local
14 Bar opposed to that --

15 MR. HAGNER: Yes.

16 MR. ETISH: -- proposal?

17 MR. HAGNER: Yes. For the reasons stated and
18 articulated by the State Bar.

19 MR. ETISH: Okay.

20 JUDGE WALLACE: Mr. Hagner, thank you very
21 much for appearing.

22 MR. HAGNER: Thank you.

23 JUDGE WALLACE: Is there a Hudson Vanderhoff?
24 Mr. Vanderhoff.

25 MR. VANDERHOFF: Good morning.

1 JUDGE WALLACE: Good morning, Mr. Vanderhoff.

2 MR. VANDERHOFF: Judge Wallace, ladies and
3 gentlemen of the Committee.

4 The New Jersey State Bar Association in its
5 report and recommendation on multi-jurisdictional
6 practice has argued against the driver's license
7 approach, the green card approach, and as we've heard
8 here this morning, is for rather stringent requirements
9 regarding multi-jurisdictional practice. They point
10 out that these approaches will add to public suspicion
11 about the competence and credibility of the Bar, and
12 then the committee then goes on to propose certain safe
13 harbors, which we've heard discussed here this morning.

14 What I come here to talk about does not
15 necessarily fit into any of the nice, neat categories
16 that have been put forth, but touches on several of
17 them. I come to talk about some of the basic admission
18 rules which we have in the State of New Jersey. As a
19 profession, we continue to have a need for more
20 diversity, racially, economically, gender. Our state
21 currently has chosen to rely solely on the American Bar
22 Association to oversee legal education. However, the
23 American Bar Association has been extremely slow in
24 allowing the introduction of new technology into legal
25 education in a way which will help drive down the cost

1 of legal education, and allow the opportunity of legal
2 education for more individuals. Also by driving down
3 the cost of legal education would allow attorneys to be
4 engaged in more pro bono work, and to be more involved
5 in their communities; goals discussed here this morning
6 which are very worthwhile.

7 Other states, such as California, have taken
8 steps to permit unapproved schools to exist, and give
9 greater opportunity to individuals in their states.
10 New Jersey may not wish to personally go down this
11 road, but can make provisions for such attorneys to be
12 admitted in our state. For example, California rules
13 permit require that an applicant for the Bar exam be
14 admitted to practice law in another state. It does not
15 go on to address all the educational requirements.
16 They rely on the courts of other states to determine
17 those requirements for education. But once that person
18 has -- has -- has successfully navigated that course,
19 and been licensed in that state, California defers to
20 that state's course of action, and will allow those
21 members to sit for the Bar in the State of California.
22 California has no general reciprocity. They have no
23 admission on motion. Everyone who enters the Bar in
24 California must do so by examination.

25 This recognizes the fact that all states

1 attempt to maintain high-quality applicants, and that
2 once a person has been admitted in another state, if
3 they choose to prepare, pay the fees, and invest the
4 necessary time, they should be allowed to seek
5 admission, even if their education was not ABA
6 approved.

7 Since we've been discussing Wisconsin so much
8 this morning, I'll bring Wisconsin up again. In 1998,
9 Wisconsin changed their Rule 40.04 to allow any person
10 who has passed the Bar exam and been admitted in
11 another state to be admitted if they sit for and pass
12 the Wisconsin Bar Exam. Again, Wisconsin wished to
13 show deference to the courts of other states, and that
14 once a person has met the requirements, and showed the
15 necessary competence to become a member of that state's
16 Bar, they're willing to allow that person to show
17 competence in Wisconsin by sitting and passing their
18 Bar examination.

19 Now some may say that this would open the
20 floodgate to those who graduate from non-ABA-approved
21 schools. It's simply not the case. In the three years
22 since the rule changed in Wisconsin, only four
23 applicants have sat for the Bar exam, less than one per
24 examination. Attorneys are not likely to desire to
25 practice in New Jersey without having strong ties to

1 the state. Wisconsin, unless you are into cheese or
2 something along those lines, you may not have the
3 strong desire to go out there and just sit for their
4 Bar exam so you can be licensed in another state. It
5 would be a waste of time, and energy, and effort.

6 The same here people would not be rushing to
7 take the New Jersey Bar Exam just to add another state
8 to their credentials. By requiring the Bar
9 examination, New Jersey can still measure competence,
10 and they could still have accessibility and
11 accountability by subjecting the applicant to
12 discipline and New Jersey rules once admitted, and it
13 would still require the skills and methods course as
14 well.

15 UNIDENTIFIED SPEAKER: Excuse me?

16 MR. VANDERHOFF: Yes.

17 UNIDENTIFIED SPEAKER: Do any of our
18 neighboring states allow admission to the Bar for
19 individuals who graduated from unaccredited law
20 schools?

21 MR. VANDERHOOF: New York, Pennsylvania and
22 Delaware do not.

23 UNIDENTIFIED SPEAKER: Can I ask whether --
24 are you testifying as to only -- only people who
25 have -- who are trying to seek admission having been

1 admitted somewhere else, as opposed to someone taking
2 the Bar for the first time?

3 MR. VANDERHOOF: My proposal would be to
4 those who are admitted elsewhere.

5 UNIDENTIFIED SPEAKER: All right. So you
6 would have had to have been admitted in California, and
7 then sit?

8 MR. VANDERHOOF: Correct. In my case, I'm
9 admitted in California. I've graduated from a non-
10 approved law school in California. I have sat for and
11 passed the California Bar Exam. I am though a life-
12 long resident of New Jersey. I went this route because
13 I was a working father. I, after long deliberation,
14 had thought that once I had completed law school, that
15 I would move to California. In the course of my time
16 of study, I had a child born with spina bifida; he's
17 paralyzed from the waist down. And why that's a
18 particular hardship to me and my family that does now
19 have to be dealt with, we now have support networks,
20 family, friends, and it would be unconscionable of me
21 ask my wife to try to relocate and my family. Although
22 California may have adequate medical facilities, to try
23 to start over at this point in our lives, to develop
24 family, friends, church relationships which would allow
25 that type of support, it would not work. And

1 traditional law school was not an option. I was in --
2 I was in retail management, and I still am in retail
3 management, and my schedule was not such that I could
4 provide for my family and attend law school. The cost
5 was -- was prohibitive. It's still prohibitive.

6 My point is that, if a state goes through the
7 effort, California for instance, New Jersey may not
8 want to regulate unapproved law schools, but California
9 has set up a structure to do so. If you go to an
10 unapproved law school, after your first year of study,
11 you must sit for the first-year law student's exam,
12 which has a section of MBE questions, multi-state Bar
13 exam multiple choice questions, just like the regular
14 Bar exam given in New Jersey, and it has essay
15 questions on torts, contracts, and criminal law; basic
16 first-year subjects which are required under the
17 California rules.

18 The passage rate on this exam runs between 12
19 to 20 percent. California wishes to try to keep out
20 those students who are not acclimated to actually be
21 able to practice law from continuing and throwing money
22 at a legal education which will not benefit them.
23 After passing that exam, you can then continue your
24 studies. At that point, you have to wait for the exam
25 to be -- take the exam, wait for the exam to be graded

1 before you can continue in your study. After that
2 point, you continue your study, and once you've
3 successfully completed your studies, you then sit for
4 the California -- California Bar exam, which has a
5 reputation as one of the hardest Bar exams in the
6 country, with consistently one of the lowest pass rates
7 in the country.

8 So California does try to maintain the
9 quality of their Bar membership through -- through
10 those steps. You're still required to take the MPRE to
11 show familiarity and competence with the Rules of
12 Professional Responsibility. All those things are
13 still required. The only thing that is missing is the
14 diploma from an ABA-approved school.

15 I'm not here from California trying to fly-
16 by-night and, you know, prey upon the unsuspecting
17 citizens of New Jersey, but I do desire, in the
18 practice of law, to serve my fellow New Jerseyans,
19 especially in terms of disability law.

20 MR. ETISH: And you would also, though, under
21 the proposal that's in place by the ABA, and what we've
22 discussed earlier today, would not be qualified to gain
23 admission by motion to New Jersey because you have not
24 actively practiced for five of the last seven years.

25 MR. VANDERHOOF: Correct.

1 MR. ETISH: Under any circumstances, so you
2 couldn't even make -- you could make the motion, but
3 ostensibly it would be denied.

4 MR. VANDERHOOF: Correct.

5 MR. ETISH: So is it your proposal that you
6 would have this committee make -- look to make a
7 recommendation that would obviate the need for that
8 practical experience before admission by motion?

9 MR. VANDERHOOF: No. I think if a person has
10 had that -- those years of active practice, then
11 admission by motion is a valid vehicle. However, in my
12 case, I only seek to be permitted to have a provision
13 that would allow me to sit for the New Jersey Bar Exam.

14 ME. ETISH: Okay. So you -- that's really
15 where I was getting to, you're here exploring a topic
16 that really is not formally on our table today,
17 certainly related, and I -- and I empathize with your
18 situation, but it is not part of the -- you would not
19 have us change the admission by motion criteria that
20 we're looking at, --

21 MR. VANDERHOOF: Correct.

22 MR. ETISH: -- up, down, and around, other --
23 because if I were to look at that and say, well, I feel
24 very strongly that Mr. Vanderhoof should be able to
25 move to admit by motion, and then because of your own

1 particular circumstances, will allow every attorney
2 throughout the United States, if he didn't have to
3 five -- or she didn't have to have five to seven years
4 experience to move into admission by -- without taking
5 the Bar exam in New Jersey, and, I think, -- I think,
6 almost everybody at this table would be opposed to that
7 type of procedure.

8 MR. VANDERHOOF: And well so. You know,
9 Wisconsin -- the Wisconsin rule allows for admission by
10 motion after a certain amount of years of practice.
11 But before that, they allow you to be admitted by
12 examination. And that --

13 MR. ETISH: Even though you didn't go an
14 accredited law school?

15 MR. VANDERHOOF: Correct.

16 MR. ETISH: And how many states in the United
17 States currently have that type of rule?

18 MR. VANDERHOOF: California, Washington, and
19 Wisconsin.

20 MR. ETISH: Okay.

21 UNIDENTIFIED SPEAKER: Washington State or
22 DC?

23 MR. VANDERHOOF: Washington State.

24 UNIDENTIFIED SPEAKER: Isn't your proposal
25 really more closely allied to what we're considering

1 under the admission of foreign attorneys?

2 MR. VANDERHOOF: Yes.

3 UNIDENTIFIED SPEAKER: And couldn't you make
4 an argument that if we are going to admit foreign
5 attorneys, who obviously have not come from ABA-
6 accredited law school with some additional educational
7 requirements, that that proposal should apply to the
8 United States non-accredited law school graduates as
9 well?

10 MR. VANDERHOOF: Yes. Yes. That's where it
11 would probably most nicely fit. If you're willing to
12 admit attorneys who have not, from outside the country,
13 who have not graduated from an American Bar Association
14 approved school, then that same deference should be
15 afforded to those who are within the country, and have
16 shown their skills and shown their competence to Bar
17 Associations of other states by examination, and having
18 been admitted, that same type of deference should be
19 shown to our fellow states.

20 JUDGE WALLACE: Mr. Vanderhoof, if I
21 might interrupt just for a moment. Would you be
22 qualified -- assuming that we had a California rule
23 type situation, would you be qualified to take the New
24 Jersey -- the California/New Jersey Bar Examination?

25 MR. VANDERHOOF: Yes.

1 JUDGE WALLACE: But I thought you said they
2 needed four years of experience in California to take
3 the revised, smaller type Bar?

4 MR. VANDERHOOF: No. I'm sorry. In --

5 JUDGE WALLACE: All right. In reading the
6 attorney -- the rule that you submitted to us, I
7 thought for California that the person moving into
8 California needed to have four years of --

9 MR. VANDERHOOF: To take the attorney --

10 JUDGE WALLACE: -- as a lawyer.

11 MR. VANDERHOOF: To take the -- to take the
12 shortened exam, --

13 JUDGE WALLACE: Yes.

14 MR. VANDERHOOF: -- there are two exams in
15 California. There's the attorney exam, which basically
16 admits the MBE. You take the essays and the
17 performance exam, so you don't have to sit for the
18 multi-state Bar exam portion of the test. However, if
19 you do not meet the qualifications, you go down to
20 Section 3 of Rule 4, that any attorney applicants who
21 have been admitted to practice in any jurisdiction,
22 other than the jurisdiction specified in Section 2, and
23 attorney applicants who do not satisfy the admission
24 requirements set forth in Section 2 of this rule, shall
25 be required to take the entire California Bar

1 Examination.

2 JUDGE WALLACE: Yes, I understand.

3 MR. VANDERHOOF: So if you have been
4 practicing less than four years in another state, and
5 go to California, you just have to sit for the entire
6 exam, instead of for the attorney exam.

7 JUDGE WALLACE: All right. So you're saying
8 you just want to be able to sit for the exam?

9 MR. VANDERHOOF: Yes.

10 JUDGE WALLACE: Okay.

11 MR. VANDERHOOF: And if I may add just --
12 which a point that I -- I found rather humorous myself,
13 that the American Bar Association itself does not
14 maintain its own distinction. By practice, they would
15 recognize this rule in the fact that, even though I
16 attended a non-ABA-approved school, once I sat and
17 passed for the California Bar exam, I have been
18 inundated with mail, my membership card, all the rights
19 and privileges therefore, you know, afforded any other
20 member of the ABA, along with my annual dues statement.
21 So, you know, the ABA by practice it recognizes that
22 once a person has been admitted to a state Bar by
23 examination, that the distinction is kind of moot at
24 that point, and they're willing to accept me with full
25 rights and privileges of membership, even though I did

1 not attend a school that they had approved of.

2 MR. ETISH: But you wouldn't want the ABA to
3 have access to your personal admission file that said
4 you went to X school -- law school, or Y school, or you
5 took a course by correspondence, or however you
6 completed your education? I mean, -- and for a privacy
7 matter, you wouldn't want them to have that, so how
8 would you -- how would they know? And I'm not trying
9 to defend the ABA here, but I'm sure they get a -- they
10 send a mailing to the California Bar Association, who
11 sends them 10,000 -- these are the 10,000 successful
12 occupants for the Year 2002, and then they try to
13 register all of them, without knowing how they got
14 through that admission, whether they had -- I don't
15 know if California has an ability to move foreign
16 attorneys in, or as you say, sit for the Bar exam
17 without going through an accredited law school, they
18 would have really no way of knowing that without some
19 kind of invasion of your privacy. So I understand your
20 point.

21 MR. VANDERHOOF: That's true, but, I mean,
22 they could submit an application form saying that we're
23 willing to accept you if you graduated from our school.
24 You know, at that point they're interested in numbers,
25 and members, and --

1 MR. ETISH: Money.

2 MR. VANDERHOOF: -- and money, you know. And
3 in that relevance, it comes forth that if you've sat
4 and passed for a Bar examination, you've shown your
5 competence, you're going to be in a situation where you
6 are accountable to the state in which you seek to
7 practice, isn't competence and accountability the key
8 issues that we're looking for in our attorneys?

9 UNIDENTIFIED SPEAKER: Is there some
10 definition of what an unaccredited law school is, other
11 than that it's a school not accredited by the ABA?
12 Because I just heard a comment about what, you know,
13 you could go to law school by correspondence. I don't
14 know if that's how you -- you did, or if you were a
15 resident. Is there any residency requirements? I
16 mean, I don't mean resident --

17 MR. VANDERHOOF: It varies by state. There
18 are unapproved law schools which are -- you go to the
19 building and attend law schools. They are unapproved
20 law schools which are -- California does allow
21 correspondence education. That's where I got my
22 education. I did go to several courses in California
23 that were held in one-week concentrated forum. The
24 school that I was involved in is involved heavily in
25 Internet technology, classes by way of the Internet, by

1 video, Internet conferencing, phone conferencing to be
2 involved with fellow students, involved with
3 professors. Those interactions are maintained.

4 I told you in the first year law student's
5 examination in California, the average pass rate is
6 between twelve and 20 percent, depending on the year
7 and the particular examination. The school that I go
8 to has a pass rate ranging between sixty and 80
9 percent. In the general Bar exam, the school that I
10 attended compares with any ABA-approved school for pass
11 rate. Most correspondence schools do not do that well.
12 They don't -- have not included the technology that's
13 available either.

14 UNIDENTIFIED SPEAKER: Which -- do you mind
15 saying which school you went to?

16 MR. VANDERHOOF: Oakbrook College of Law,
17 Fresno, California.

18 And, again, I'm willing to show my
19 competence, willing to be subject to the rules of the
20 Court. But having gone through the rigors of the
21 California Bar Exam, that opportunity should be
22 available, and not decided by the -- the ABA approved
23 the school, or the ABA didn't approve the school. He's
24 been admitted by the Bar Association of another state,
25 he should be allowed to show his competence by sitting

1 and passing the New Jersey Bar Exam. And the rule
2 recommendation would allow that.

3 MR. FRANCIS: Your suggestion is for a rule
4 that would allow somebody to sit for the New Jersey Bar
5 Exam, even though they went to a non-ABA-accredited
6 school, provided they had passed the Bar exam of
7 another state?

8 MR. VANDERHOOF: The Bar exam of the state in
9 which their school is approved. You start throwing
10 approved and accredited around, it gets confusing. The
11 school that I went to is recognized by the State of
12 California for the granting of degrees. It's not a,
13 you know, it's not ABA approved.

14 MR. FRANCIS: Okay.

15 MR. VANDERHOOF: And I know that there are
16 other associations out there that are seeking to
17 develop alternative accreditation standards to the ABA
18 because of their -- the progress in which they
19 recognize new technologies.

20 You know, for instance, and not to get into
21 the ABA standards on approval, but they have -- their
22 sections on law school requirements require rather
23 large libraries. But you go upstairs to the next floor
24 here, most -- most of the students aren't going in the
25 stacks of books, they're going to be in the computer

1 lab doing a majority of their research by computer. Is
2 the requirement then of having so many volumes in your
3 library really relevant to legal education today? When
4 most of you need to go do legal research, do you hop on
5 your computer to find the information you need, or do
6 you go out to the library and start, you know, handling
7 books? I think it speaks volumes that a majority of
8 what we do is computer based.

9 So there are requirements for ABA approval
10 that really have not kept time -- kept up with the
11 technology that's available. And that's just one case
12 in point. That ends my prepared statement. If
13 there --

14 JUDGE WALLACE: Any additional questions for
15 Mr. Vanderhoff?

16 Mr. Vanderhoff, thank you very much for your
17 presentation. We realize it's a difficult situation
18 that you're in, and we'll certainly consider it.

19 MR. VANDERHOOF: Thank you very much.

20 JUDGE WALLACE: Thank you.

21 Is there a David Brock (phonetic) present
22 this morning?

23 Sir, did you wish to make any presentation to
24 the Committee?

25 MR. JOOBEEEN: Yes. At the conclusion of the

1 Committee, if I may speak?

2 JUDGE WALLACE: Your name, please?

3 MR. JOOBEEEN: Ali Joobeen.

4 JUDGE WALLACE: Yes.

5 MR. JOOBEEEN: Ali Joobeen.

6 JUDGE WALLACE: If you'll come to -- would
7 you spell your name again?

8 MR. JOOBEEEN: Yes. A-l-i, Ali Joobeen,
9 J-o-o-b-e-e-n.

10 JUDGE WALLACE: Mr. Joobeen.

11 MR. JOOBEEEN: Thank you. Thank you for
12 permitting me to speak. I guess I fall in partly in
13 the category of the previous speaker or presenter
14 because I have my qualifications from England. Now I
15 am a resident in England, or I should say of England,
16 and I'm also a resident, a green card holder of the
17 United States. And, more specifically, I reside in New
18 Jersey.

19 Now I have an undergraduate degree from the
20 University of London in Science and Technology from
21 Imperial College, which is a well-known college of the
22 University of London, and also I have six graduate
23 degrees, three of them in law, and I -- just about all
24 of them from the University of London, and I attended
25 the London School of Economics, which is again a fairly

1 well-known university. Now maybe I should just say
2 that we've had thirty noble laureates from LSE, who in
3 one shape or form have been connected with the school.

4 Now I come here age 40, and having taught law
5 in England for a number of years, and now that I live
6 here, I wish to be able to take the New Jersey Bar
7 Exam. And, of course, I'm not permitted to do that
8 because under the current rules, I have to take the
9 LSAT's (phonetic), and I have to do a full JD program
10 at an ABA-approved school, and I have to spend three
11 years, and probably upwards of, well, at least if not
12 upwards, but certainly close to \$100,000, and the
13 opportunity loss of earning, and other things.

14 So as much as I truly felt for the last
15 speaker and his hardship, because it makes my hardship
16 feel like nothing to me, but nonetheless I think it is
17 a hardship to me economically, but I think more so
18 intellectually. Because to go back to a law school, an
19 ABA-approved law school, and really it doesn't matter
20 where it is, it is a hardship to -- to be having to do
21 a full JD program all over from scratch.

22 Now I am not saying that someone like me
23 should be permitted to walk in by motion, and be
24 permitted to practice law. And I am not saying that
25 someone like me who has residences abroad, et cetera,

1 should be somehow exempt from fully complying with the
2 Rules of Professional Responsibility Ethics,
3 competency, and other things. I am not saying any of
4 those things. But what I am asking is, what is the
5 rational basis for making a rule that prohibits
6 qualified applicants from common-law jurisdictions,
7 such as England, where contract is substantially
8 contract, tort is substantially tort, and I notice
9 Judge Payne is disagreeing with that statement, but I'm
10 very curious, of course, to know why you might think
11 that the principles of English contract law are
12 drastically different, that one couldn't, for example,
13 by taking a three-credit course at an ABA-approved law
14 school remedy.

15 Which brings me to the crux of my argument,
16 that's really someone like me should be able to take a
17 certain number of courses, at an ABA-approved law
18 school. Now if you'd like those courses to be three
19 credits in contract, three credits in tort, three
20 credits in -- in property, and criminal law, crim law
21 one, crim law two maybe, even I would go further than
22 what is in the generic Bar exam of New Jersey, which
23 really has essentially nothing to do with New Jersey.
24 New Jersey I would say even let's do the six core
25 subjects that are examined on the Bar, but go beyond

1 that and say, oh, yes, Mr. Joobeen, you come from
2 England, so maybe you should also, you know, study the
3 Gann books and, you know, know more about New Jersey
4 civil procedure or criminal procedure as well. Or
5 maybe you should know about the appellate rules of --
6 of practice so that --

7 MR. ETISH: Can I interrupt you for one
8 moment? Tell us a little bit about your -- you've
9 told us you went to the University of London, and
10 you've had -- did you ever practice in England as a
11 Barrister or a solicitor, or whatever --

12 MR. JOOBEEN: No. At the time that I was
13 studying law, there were two routes, you call it
14 routes, two possibilities, --

15 MR. ETISH: Right.

16 MR. JOOBEEN: -- to take the Bar exam. One
17 was the overseas Bar and one was the practicing Bar.
18 Now I took the overseas Bar because I didn't want to do
19 the two-year clerkship.

20 MR. ETISH: Right

21 MR. JOOBEEN: And, of course, the other
22 avenue is to be a solicitor where you basically do two
23 years of a clerkship in a solicitor's firm. But,
24 course, the --

25 MR. ETISH: But after you took the overseas

1 Bar -- was there a Bar exam administered?

2 MR. JOOBEEEN: It was a Bar exam, but one is
3 not able to practice -- I joined -- but one could not
4 and cannot practice as a practicing barrister, but I
5 think with the proviso that -- I mean, I think I should
6 explain that in England, unlike the United States, most
7 academics on neither members of the solicitor's
8 profession nor the Bar, you know, neither barristers or
9 solicitors. Now that is obviously a little bit unusual
10 when we compare it with -- -- with the US structure.

11 But, you know, but, in any event, in the way
12 that I relate to the last -- to the previous speaker,
13 is because I could technically take the New York exam,
14 and then, of course, I would still be not permitted to
15 take the New Jersey Bar. And at that, I guess,
16 juncture I would become -- I would fall into this
17 category which would be very similar to the previous
18 speaker's category.

19 MR. FRANCIS: Were the law courses you took
20 on an undergraduate level or graduate level, or is that
21 a meaningful distinction in the UK?

22 MR. JOOBEEEN: It's a meaningless distinction,
23 and actually I would go further and -- and currently,
24 for example, I am taking two courses at Rutgers Newark,
25 I'm taking patent law, and I'm taking trademark, and

1 also composition as another -- and, of course, I took
2 as part of my interest, you know, I took equity, for
3 example, with Justice Berger (phonetic) from the -- who
4 was teaching such a course, and she's as, you know, the
5 Supreme Court of Delaware.

6 And I would say that really there is
7 absolutely no distinction, no distinction whatsoever in
8 the -- in the level of teaching, the quality of
9 teaching. If anything, I would say, I think Dean
10 Solomon is probably familiar with, you know, some of
11 the academic standards, you know, in England,
12 especially in the more well-known universities, you
13 know, practice of law is substantially not -- in an
14 English common-law jurisdiction, not substantially that
15 different.

16 Now I have heard, and I think this is of
17 great concern that somehow we should allow Canadians,
18 or carve out an exception for Canadians because somehow
19 they look more intelligent, or just because they
20 somehow they, you know, they look more similar to us.
21 And I think that is, you know, that is --

22 MR. FRANCIS: They're a former colony --

23 MR. JOOBEEEN: Well, actually, you know, well,
24 it's interesting you raise that because I mentioned
25 that I'm a resident of England, and also I am a

1 resident here, but I am a citizen of Iran. Now these
2 are the times that people like me are needed by the so-
3 called public if -- if the rational basis of making
4 decisions as to what it is that we are trying to do by
5 providing access to legal profession, then you should
6 come with me, spend a day with me, and we just drive
7 around, and go where I go, and live the way I live, we
8 walk into a gas station, and we see what people say.
9 And people, you know, there are a lot of people who
10 relate to me much more so than any of your colleagues.

11 MR. ETISH: So you would have -- you would be
12 -- your interest would be if you could sit for the New
13 Jersey Bar Exam after some type of ABA-accredited
14 compacted education, that you would like to practice.
15 You don't want to be an academic in the United State
16 because I believe, and Dean Solomon can tell me if I'm
17 right or wrong, that if you -- that the law schools in
18 the United States from time to time invite as visiting
19 professors, --

20 DEAN SOLOMON: Absolutely.

21 MR. ETISH: -- you know, academics from
22 England and other -- other countries to come and teach
23 for a year, two years, or I don't know, maybe even
24 longer periods of time. But you're looking actually to
25 adopt some kind of practical application, practice here

1 in the United States or in New Jersey?

2 MR. JOOBEEEN: It's actually very interesting
3 what you raise. Of course, one cannot say with my
4 teaching experience I can't say that I never want to
5 teach or that somebody may not ask me to teach a
6 particular subject; I used to teach corporate finance
7 law in England, I have an MBA in finance, I'm a
8 specialist in corporate finance, and so I'm not saying
9 that -- that I would not like to teach. But, however,
10 hearing -- being present at the last hearing last week,
11 the first hearing of this committee in Newark, you
12 know, I was concerned. Under the current rules, if I
13 understand them accurately, to -- to teach law is to
14 practice law in New Jersey. It is deemed to be
15 practicing. And I was wondering to myself, you know,
16 so if somebody is admitted in Arizona, and is teaching
17 at Rutgers or Seton Hall, that are they practicing law,
18 for example, without a license?

19 But, I mean, that's a -- that's a separate
20 issue. But, you know, certainly that if I am admitted
21 in New York, for example, or if I come from England, I
22 think that there may be certain problems if I was to,
23 for example, even do some limited teaching. So I am
24 greatly hampered. I live in New Jersey. I don't want
25 New Jersey to be a bed-and-breakfast joint. I don't

1 want to have to go to work in New York, and sleep in
2 New Jersey. You know, I am in New Jersey, and I want
3 to work and live in New Jersey, and I think I have a
4 lot to bring to the table. And I think I have a lot to
5 bring academically. And maybe I don't look Canadian,
6 and maybe, you know, I don't sound intelligent to some
7 people, and maybe, you know, I don't have blonde hair
8 or blue eyes, but nonetheless, I have a lot to bring to
9 the table. We live in a global world, you know. We
10 have a lot of problems to address, and I think this is
11 the Rome of today, and I think you can't -- you know,
12 imagine going back in history and, you know, and
13 saying, now that we are the rulers, now that we have
14 the empire and we are Rome, we are not going to -- to
15 allow littlents (sic) to come forward and practice law.

16 JUDGE WALLACE: Sir, if I can -- let me -- if
17 I might paraphrase --

18 MR. JOOBEEEN: Yes, sir.

19 JUDGE WALLACE: -- what you're asking us to
20 do is to make some sort of recommendation that a core
21 number of courses, after your background had been
22 reviewed, that if a foreign-educated attorney took a
23 core number of courses from an accredited law school
24 here in -- in the states, that you should be able to
25 sit for the New Jersey Bar exam?

1 MR. JOOBEEEN: Yes, absolutely. And I would
2 even make certain requirements even more stringent
3 than what is needed as core competencies, which I do
4 consider them to be minimalistic, which is what the
5 Bar is. You know, I would consider it essential
6 because I have sat in many courts in New Jersey. I
7 have watched -- I have spent -- you know, I have a
8 permanent chair at the Jenkins Law Library. Being
9 there, and I have -- you know, I have listened to
10 hundreds of hours of the tapes of the oral arguments of
11 the Supreme Court of the United States. I have studied
12 law for the two years I've been here solidly. I have
13 been studying at least 80 hours a week, because people
14 like me who -- when they become lawyers, they don't
15 become lawyers just so that it sounds good, or because
16 my father sent me, or because someone -- you know, it
17 impresses someone else. We do law because we see it as
18 fundamentally important. It's not just a business,
19 it's not just to make a living. And people like me
20 should be permitted to practice law internationally.

21 I'm sorry, Dean Solomon, may I just -- I
22 brought two books, one of them, if I may, if I may, one
23 of them addresses the ABA and the US attorneys who are
24 in negotiation with the European community as part of
25 arrangements there. Now New Jersey can sit here and

1 say, we don't care, we don't care about these people,
2 and we don't care about what goes on, we just want to
3 protect our profession. But if the -- if the so-called
4 protection of the profession is monopolistic, the
5 Supreme Court of New Jersey has no legitimate interest,
6 and New Jersey and its citizens do not have a legitimate
7 interest in just closing the door without a rational
8 basis and a rational investigation. And I would say
9 even further, a full cost-benefit analysis as to what
10 it means, what it means to open up the doors a little
11 bit with control, and as Judge Wallace, I think,
12 rightly read what I -- what I was saying, really to
13 have rigorous exams, and to go even beyond and to say,
14 look, even take, you know, 24 credits, for example.
15 People say to me, don't mention New York, because New
16 Jersey doesn't like to hear about New York, but, you
17 know, New York requires 24 credits.

18 So let's take 18 credits in the six core
19 subjects, the competency subjects that are on the Bar,
20 and then let's have another six which are more practice
21 oriented, appellate practice, you know study the Gann
22 book. I assume you know what I mean by the Gann
23 Publishing, you know, the New Jersey book or something,
24 which, you know, which I studied -- I studied those
25 because I'm really curious and I want to know, and .

1 basically study civil -- civil or criminal practice, et
2 cetera.

3 JUDGE WALLACE: Sir, now you did not submit
4 anything in writing, but we would certainly welcome
5 anything that you would like to submit in writing that
6 we could review that might set forth this proposal --

7 MR. JOOBEN: Thank you.

8 JUDGE WALLACE: -- that would indicate 24
9 credits, 30 credits, that -- so that it was in black
10 and white, then we might be able to review it in our
11 subsequent meetings.

12 MR. JOOBEN: I certainly will do that.

13 JUDGE WALLACE: Okay.

14 MR. FRANCIS: Let me ask you a couple more
15 questions, if I may not related, but let me get them
16 both out to you.

17 You've said that three years of an ABA-
18 approved law school would be a hardship. Suppose it
19 was something short of that, with some credit for
20 having received an education abroad, but still the
21 equivalent of two years here in an ABA-approved law
22 school, would that still be a hardship?

23 MR. JOOBEN: Very interesting, and I wish
24 that Dean Solomon would let me to do that program right
25 here, but I can't do that. Because most law schools

1 under the ABA rules have got -- I mention this because
2 there are only three law schools, I mean, this is as
3 good as any because Dean Solomon is sitting there, but
4 -- but --

5 MR. FRANCIS: Well, it's as good as any
6 whether he's sitting here or not.

7 MR. JOOBEEEN: Well, as good as any, yes.
8 And, of course, if Dean Chen (phonetic) was here, I
9 would have said, you know, Newark, or Seton Hall. But
10 nonetheless, you know, the problem is that -- that as
11 you probably know, there are these requirements of
12 residency and -- and I think minimum credits by the
13 ABA. So, you know, there is always a twist and a turn
14 to everything we do in law. And I think here again --

15 MR. FRANCIS: Yeah, but I'm suggesting, I'm
16 hypothesizing a --

17 MR. JOOBEEEN: Yes, sir.

18 MR. FRANCIS: -- a specific rule that would
19 say, for example, that you can be admitted in New
20 Jersey upon completion of so many credit hours, 28
21 credit hours, --

22 MR. JOOBEEEN: Right.

23 MR. FRANCIS: -- with courses in -- and the
24 one you didn't mention at all was constitutional law,
25 you know, --

1 MR. JOOBEEEN: Oh, no, but that's one of the
2 six.

3 MR. FRANCIS: -- torts, contracts, --

4 MR. JOOBEEEN: I'm sorry, that's one of the
5 six.

6 MR. FRANCIS: -- all of those kinds of
7 things.

8 MR. JOOBEEEN: Yes, the evidence is one of the
9 six. I had said the six core --

10 MR. FRANCIS: Sure. Okay.

11 MR. JOOBEEEN: Yes.

12 MR. FRANCIS: You would -- you would support
13 that kind of a proposal?

14 MR. JOOBEEEN: Yes. And I think everybody
15 would -- would be benefitted.

16 MR. FRANCIS: Well, let me give you another
17 piece --

18 MR. JOOBEEEN: The public would be benefitted,
19 the profession --

20 MR. FRANCIS: I'm sorry, go ahead.

21 DEAN SOLOMON: Can I just do a clarification
22 here. What the -- I think most of the states, or the
23 states that do allow for foreign graduates, do they do
24 it term of credit hours, or an LLM? But the program is
25 usually that we would -- probably we in Newark and

1 Seton Hall would start LLM programs, which would -- I
2 don't think either three of us have really in the
3 general run of things, as opposed to getting involved
4 in trying to change what the ABA requirements are.

5 MR. JOOBEEEN: I think one of the -- the most
6 interesting proposals in the United States in terms
7 of -- the other book I didn't mention is the
8 International Trade and Legal Services which actually
9 looks at the history of how New York came to open up,
10 and what was going on with England trying to -- to
11 carve out the market for itself, et cetera.

12 But I think what would be very interesting,
13 and could be very progressive would be become a special
14 LLM, not what New York -- New York says, oh, just do
15 any LLM and then you can, you know, come and practice
16 law. Which I think it actually doesn't serve the
17 public interest or protect the clients. But I think if
18 you have an LLM which was the specific to the -- to the
19 state which said that, you know, we take, for example,
20 between the three universities, we take ten or fifteen.
21 Start small. I'm not saying open the floodgates and
22 let everybody in, common law, you know, English common-
23 law jurisdictions. And people who, of course, speak
24 English, people who have proven themselves, let's say
25 three years of law school attendance, et cetera, and

1 you would start a program which is designed that you do
2 it at 12 months of let's say 28 credits in 12 months,
3 and plus I did a dissertation or even a dissertation
4 based on a placement in a law firm, maybe for a month
5 or so.

6 I sat with a judge in Philadelphia, you know,
7 I basically -- I went all out to try to get a feel for
8 the -- for the jurisprudence of this country. But, of
9 course, you know, I came initially for one year to
10 learn US constitutional law, but then I realized that
11 with all that is going on, there is a lot more to be
12 done, and I don't have a handle, I don't have a grip
13 on it, you know, and I decided that I would like to
14 stay because beyond what I do here, you know, there is
15 more -- it's not just the bread-and-butter practice of
16 law or real estate transaction. We're talking about
17 something far greater and something far more important
18 here.

19 It's about allowing people who have the
20 dedication, the intellectual ability, the right
21 background, and the right, if you like, morale or
22 ethical philosophy about what it is that they are
23 about, to be able to join this honorable profession.
24 It's a calling. It's not an MBA. And I think most law
25 students have forgotten that. Most students at law

1 schools are actually shouldn't be there. Certainly the
2 ones I've met, you know, up and down in this state.
3 I'm saddened to say.

4 MR. FRANCIS: Let me ask you about another --
5 another piece of this puzzle for foreign-educated
6 attorneys. The character committee does extensive
7 reviews of somebody's background as a prerequisite to
8 admission. Now if we've got somebody who -- who grew
9 up in Iran, and who was educated in Iran, or pick any
10 other place, we're worried about achieving accurate
11 information, verifying that information, getting
12 accurate translations, do you see any problems there,
13 and, if so, what are the solutions to that?

14 MR. JOOBEEEN: Well, in my case, of course,
15 it's slightly different. I went to boarding school in
16 England when I was ten. And I did my high school
17 education in England, and I then went to -- to my
18 undergraduate degree program, then I -- then I was
19 doing my graduate work. So it wasn't a problem as
20 such.

21 But, of course, we have many Iranians, you
22 know, who have got their undergraduates in Iran who are
23 great professors at Columbia, and UCLA, and Cal-Tech,
24 and, in fact, I met four, you know, four Iranians who
25 are considerably older than me, but they've been at

1 Stevens, which is an excellent technological
2 university, for the past 30 years. They're full
3 professors, you know, and part of the infrastructure I
4 would say.

5 I mean, it's not as if people from Iran
6 inherently, you know, that there's a long history of
7 recognizing qualifications from overseas as an
8 undergraduate. I think the question arises where you
9 have someone like in my category as far as the foreign
10 legal education is concerned, because we are not
11 talking about Iranian -- if I was an Iranian attorney,
12 it would be a different story. I would probably say
13 that that person should do a full JD because it's not
14 an English common law jurisdiction. I think if
15 somebody comes from India, somebody comes from
16 Pakistan, Bangladesh, South Africa, but what is
17 somebody comes from Australia, or New Zealand, or
18 Canada, or England, not the -- not where you were born,
19 but in terms of education.

20 You know, if I am permitted to, you know, to
21 practice -- to go back to England and to two years of
22 articles and become a solicitor, because obviously that
23 stays in my way because that's something I never did,
24 but, of course, you know, that's -- that's what we're
25 talking about. We're talking about somebody who comes

1 from an English common law jurisdiction. And the
2 question at that point becomes, what is the relevance,
3 what is the basis for having rules that make it
4 prohibitive, that actually stands in the way of the Bar
5 benefitting from me and people like me, and me
6 benefitting from, you know, the Bar, and the people
7 benefitting from this interaction.

8 JUDGE WALLACE: But you would limit your
9 proposal to those coming from a common law
10 jurisdiction?

11 MR. JOOBEEEN: I would. I would. Because I
12 have noticed that, you know, when people come from
13 civil law jurisdictions, although I know New York
14 doesn't make that distinction. Maybe again to be more
15 progressive, but yet protecting the clients, and -- and
16 what the Bar is about is to have a program for them
17 which is maybe 12 credits more. Because it's also not
18 true to say that attorneys who come from Holland or
19 Germany that they somehow are way behind, that they
20 couldn't catch up let's say in a year, a year and a
21 half with what comes out of a typical JD program in the
22 US.

23 The program is extensive. You know one of
24 my college friends is a judge now in Germany, and
25 she -- when I was in my numerous Master's programs, she

1 did her Ph.D. program at LSC, and she also, of course,
2 in Germany you have to get a Ph.D. to be a -- to become
3 an administrative judge anyway, so they have a very
4 stringent -- and, of course, their English is perfect.
5 I mean, everybody speaks excellent English when you go
6 to Germany, or Holland, or Belgium, et cetera. So, I
7 mean, these people do not have language barriers, these
8 people do not have intellectual barriers, or handicaps
9 in other ways. You know, and I think the -- the
10 community and the US -- and, of course, there is an
11 excellent argument about the Gatz (phonetic)
12 implications, you know, on -- in all of this too. I
13 mean, there is a lot more to this.

14 I think what New Jersey is doing is -- falls
15 short far of the law, international law on some fronts,
16 and I think some of it is -- is discriminatory. I
17 mean, it is not packaged or wrapped up that way, but
18 certainly its implication is, and I think it's open to
19 challenge, the fact that no one has done it.

20 MR. ETISH: Well, that's what we're here
21 discussing today.

22 MR. JOOBEEEN: I know.

23 Mr. ETISH: We're discussing the potential
24 and the possibility for change. And this committee
25 hasn't come to any hard decisions on this whole process

1 for or against it. Your --

2 MR. JOOBEEEN: I understand.

3 MR. ETISH: I wasn't at the hearing in
4 Newark last week, but this is the first presentation
5 I've heard to support your type of -- and everybody
6 comes -- again, your predecessor had a little different
7 twist on where he would like to take -- sit for the New
8 Jersey Bar Exam. I think we empathize with your
9 situation, and we understand it, and we'll consider it.

10 MR. JOOBEEEN: Yeah. But as I seem to be the
11 only person, because last time nobody spoke, you know,
12 on the issue.

13 JUDGE WALLACE: That's correct. You are --

14 MR. JOOBEEEN: And as I seem to be --

15 JUDGE WALLACE: And we certainly welcome your
16 comments to get --

17 MR. JOOBEEEN: -- speaking for the rest of the
18 world just about. So if you permit me, you know, to
19 just say that -- that maybe the best judge of
20 competency is -- are the members of the Bar. Because
21 to passijate (sic) -- to pass a Bar exam, that's
22 generic, is not -- it really has nothing to do with --
23 with New Jersey. To passijate the degree, it really
24 doesn't say much about someone who is, you know, who's
25 a lawyer in Europe or in England, it doesn't say

1 anything. I mean, really it just says that you have
2 certain minimalistic skills, and I don't blame, you
3 know, the people -- people who studied literature or
4 history, and, of course, you know, I go to Shakespeare
5 plays all the time, but, you know, they opt for the
6 last year and a half of a JD program to do Shakespeare
7 and the law. Which, of course, is great, you know.
8 It's actually I would say it's essential reading if you
9 want to be an excellent, you know, jury spent kind of
10 jury.

11 But really in assessing what a legal
12 education really means, you know, you need to take
13 account of a whole host of things. You know, I have an
14 engineering Master's degree. I have an undergraduate
15 in mathematic in aeronautics, and I have an MBA, and I
16 have a law degree in oil and gas law. But, of course,
17 that's probably because, you know, I come from the
18 Middle East, people think I should know about oil and
19 gas law.

20 But, you know, I mean, I have competencies
21 that are useful, and I can't do anything with it. You
22 know, now I live here, you know, I want to be a
23 productive member of this community, you know, New
24 Jersey, USA, and I am prohibited because the cost is
25 prohibitive, and because the barriers to entry talking

1 LSAT and doing another three years, you know, I'd be in
2 my mid-'40s, you know, and every day I think to myself,
3 maybe I should just go back to England.

4 Now some people might say, that would be a
5 great solution, go back to England, and you don't have
6 to deal with your issues. But I actually think there's
7 a lot to be lost if, you know, if basically opportunity
8 is lost in attracting --

9 JUDGE WALLACE: Well, --

10 MR. JOOBEN: You know, it doesn't maybe at
11 most or something for a few years...

12 JUDGE WALLACE: And the fact that we are
13 here, and this issue is on our plate, we are addressing
14 your concerns. We don't know how they're going to come
15 out at this point, but we certainly welcome your
16 comments.

17 MR. JOOBEN: Thank you, sir.

18 JUDGE WALLACE: And I'm very happy that you
19 decided to speak with us this day -- today, even though
20 we missed your commentary last week. But we certainly
21 have the time, and it's worked out very nicely, and I
22 thank you for your presentation.

23 MR. JOOBEN: Thank you very much. Thank
24 you.

25 JUDGE WALLACE: Is there anyone else? I see

1 only the administrative office staff present.

2 It's now approximately 11:20. If there's no
3 one else here to be heard, I would adjourn the meeting
4 for the morning. I know there is some brunch or
5 festivities for this afternoon.

6 UNIDENTIFIED SPEAKER: Yes. Up in the same
7 room where we...

8 JUDGE WALLACE: The same room.

9 UNIDENTIFIED SPEAKER: Judge, Sam called for
10 the individual that had been scheduled to come.

11 JUDGE WALLACE: Yes.

12 UNIDENTIFIED SPEAKER: We were told that --

13 JUDGE WALLACE: Mr. Brock.

14 MR. UBERMAN: I spoke to his secretary. She
15 said she, I guess, probably tried calling late
16 yesterday.

17 UNIDENTIFIED SPEAKER: So they're not
18 expected?

19 JUDGE WALLACE: So he will not be present?

20 MR. UBERMAN: That's correct, he won't be
21 present.

22 JUDGE WALLACE: Okay.

23 MR. ETISH: So we don't have any further --

24 JUDGE WALLACE: All right. We have no
25 further.

MR ETISH: -- people schedule.
(Proceedings concluded)

CERTIFICATION

I, Charlene P. Scognamiglio, the assigned transcriber, do hereby certify that the foregoing transcript of proceedings in the New Jersey Supreme Court Ad Hoc Committee on Bar Admissions on March 14, 2002, on Tape No. 1, Index Nos. 0001 to 7426, and Tape No. 2, Index Nos. 0001 to 2146, is prepared in full compliance with the current Transcript Format for Judicial Proceedings and is a true and accurate compressed transcript of the proceedings to the best of my knowledge and ability.

Charlene Scognamiglio
Charlene P. Scognamiglio AOC #473
TAPE REPORTERS, INC.

Date: 4-3-02