

## **Delaware Supreme Court Adopts a Formal Burden of Proof Standard for Applicants Seeking Admission to the Delaware Bar**

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By order dated December 20, 2018 and effective January 1, 2019, the Delaware Supreme Court amended Supreme Court Rule 52 to formally establish the burden of proof that an applicant to the Delaware Bar bears throughout the application and admission process.

Rule 52 was silent as to the burden of proof that an applicant to the Delaware Bar bears throughout the application and admission process to demonstrate that the applicant has the requisite character and fitness to practice law in Delaware. While Supreme Court precedent established the burden of proof as “beyond substantial doubt,” that burden does not have a commonly-understood meaning, would be difficult to define, and is not utilized by any other bar admission authority of which the Court is aware.

“Clear and convincing evidence” is a standard that practicing lawyers understand and can readily apply, appears to be a common burden of proof among other bar admission authorities, and is the standard applied by the Board of Professional Responsibility and the Supreme Court in lawyer reinstatement proceedings. The Court, consistent with its authority to regulate persons who are admitted to practice law in Delaware, adopted this amendment to formally establish that an applicant to the Delaware Bar has an affirmative burden to demonstrate by “clear and convincing evidence” that they possess the requisite character and fitness to practice law in Delaware.

The amendment to Rule 52 is effective January 1, 2019 and is available on the Delaware State Courts’ website: <http://courts.delaware.gov/rules/>. For more information, please contact: William S. Montgomery, Supreme Court Administrator, at [william.montgomery@state.de.us](mailto:william.montgomery@state.de.us) or 651-3906.