



Knoxville Bar Association

August 4, 2017

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Clerk of the Courts  
Rec'd By \_\_\_\_\_

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VIA E-MAIL: [appellatecourtclerk@tncourts.gov](mailto:appellatecourtclerk@tncourts.gov)

James Hivner, Clerk of Appellate Courts  
Tennessee Supreme Court  
100 Supreme Court Building  
401 Seventh Avenue North  
Nashville, TN 37219-1407

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Marsha S. Watson  
[mwatson@knoxbar.org](mailto:mwatson@knoxbar.org)

**Re: Proposed Amendments to Tennessee Supreme Court Rule 7,  
Section 7.01; No. ADM2017-00785**

Dear Mr. Hivner:

Pursuant to the Tennessee Supreme Court's Order referenced above, the Knoxville Bar Association ("KBA") Professionalism Committee ("Committee") has carefully considered current Tennessee Supreme Court Rule 7, Section 7.01 ("Rule"), which governs educational requirements for admission of foreign-educated applicants to the Tennessee Bar and the Petition to Amend the Rule filed by The University of Tennessee and Vanderbilt University (the "Petition"). At the KBA Board of Governors' (the "Board") meeting held on June 21, 2017, the Committee presented a detailed report of its review of the Petition. Based upon the recommendation of our Committee, the Board files this comment in support of the Petition, recommending that Section 7.01(a) of the Rule be amended to reflect the Hybrid Approach (*i.e.*, the Texas approach) as outlined on pages 11 and 12 of the Petition.

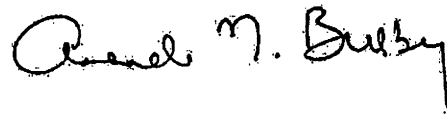
The KBA agrees with The University of Tennessee and Vanderbilt University that the Hybrid Approach supports the Court's goal of ensuring that foreign-educated lawyers are prepared to take the Tennessee bar exam, is narrowly tailored, and provides clarity to applicants prior to their investing substantial resources of time and money required to pursue an LL.M. degree. The KBA believes the Hybrid Approach is preferable to the Practice-Focused Approach or to simply clarifying the "substantially equivalent" language without a Rule change.

The Hybrid Approach not only furthers the Court's interest in protecting the public from incompetent legal representation by setting forth different paths for admission with specific educational background and practice experience requirements, but it is also fair and reasonable to applicants in that it clearly states what is required under each admission path. In making these changes, the KBA also agrees that the Court should affirmatively state that any amendment applies to all foreign-educated lawyers enrolled in LL.M. programs at the time such amendment is adopted.

James M. Hivner, Clerk  
Re: Tenn. Sup. Ct. R. 7  
August 4, 2017  
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As always, the KBA appreciates the opportunity to comment on proposed Rules and changes to such Rules promulgated by the Tennessee Supreme Court.

Sincerely,

A handwritten signature in black ink that reads "Amanda M. Busby". The signature is written in a cursive style with a large initial 'A' and a long, sweeping tail on the 'y'.

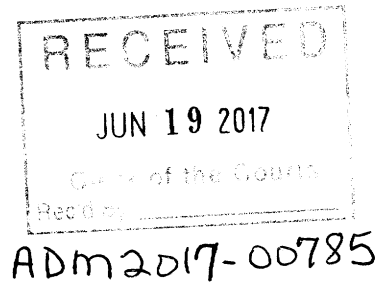
Amanda M. Busby, President  
Knoxville Bar Association

Enclosures

cc: Marsha Watson, KBA Executive Director (via e-mail)  
KBA Executive Committee (via e-mail)

June 14, 2017

James M. Hivner, Clerk  
Re: Tenn. Sup. Ct. R. 7  
Tennessee Appellate Courts  
100 Supreme Court Building  
401 7th Avenue North  
Nashville, TN 37219-1407



To whom it may concern,

I am an immigration lawyer practicing in Tennessee since 1990. I received a B.A. from Vanderbilt University in 1986 and a J.D. from the University of Chicago in 1990. I have written five books including three on immigration law topics and have written about the subject of attorney immigration for several publications over the years. That also included preparing a 50-state survey on licensing requirements for foreign attorneys. The ability of foreign-educated attorneys to practice in the United States is not restricted in US immigration law except to the extent that under the H-1B visa category, an attorney must demonstrate licensure (or meeting all of the requirements for licensure except issuance of the work visa). Attorneys in multinational firms can utilize the L-1 intracompany transfer visa. The TN Visa category, created by the NAFTA Treaty, specifically includes attorneys. I have worked on numerous attorney immigration applications over the years and the process is no different than other licensed fields.

I am perplexed why an individual who has received an LLM from a Tennessee university would not be allowed to sit for the bar examination. I know many foreign-educated attorneys in Tennessee who have made remarkable contributions to our state's legal profession. Many of them received no legal education in the US, but managed to take a foreign country's bar examination (and often in their non-native tongue) and pass. That alone is a pretty good indicator of their abilities. One of the top corporate lawyers in Nashville – an attorney who was my mentor during the early years of my practice – was a foreign law graduate who received his license in New York (a state that is quite liberal in allowing foreign lawyers to sit for the bar examination). I've had several foreign lawyers clerk at our law firm using J-1 visas over the years. One is now a prosecutor in Memphis and another runs a well-known immigration law firm in Atlanta.

My point is that we have an opportunity to attract some of the best and brightest lawyers from around the world to Tennessee if we take a welcoming position as a bar. Many have made it to our state over the years and have been made important contributions. I would

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urge you to consider this in your decision making on permitting foreign-educated lawyers to sit for our bar examination.

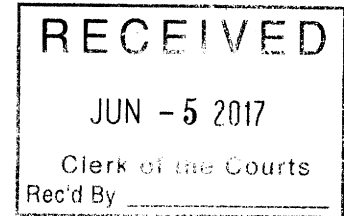
Sincerely,

Greg Siskind  
Siskind Susser, PC – Immigration Lawyers  
901-682-6455  
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C. Mark Pickrell, Esq.  
THE PICKRELL LAW GROUP  
5701 Old Harding Pike; Suite 200  
Nashville, Tennessee 37205  
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June 1, 2017

Tennessee Supreme Court  
Attn: James M. Hivner  
100 Supreme Court Building  
401 Seventh Avenue, North  
Nashville, Tennessee 37219-1407



Re: Proposed Amendment to Rule 7

Dear M. Hivner:

I am writing in response to the Court's request for comments regarding proposed amendments to Rule 7. I am a graduate of the University of Tennessee College of Law, and I have practiced law for twenty-five years.

The University of Tennessee and Vanderbilt University have petitioned for a change in Rule 7, seeking to make it easier for graduates of foreign law programs to sit for the Bar. I oppose their requested change. Quite simply, it should not become easier for foreign law graduates to sit for the Bar than it is for American law graduates. "General equivalency" is a good rule that should, in my opinion, be maintained.

Under existing Rule 7, there are a number of requirements on Americans that are intended to provide a minimum standard of education for prospective lawyers. We require three years of study of law, and, under the ABA's requirements, this course of study involves primarily the study of American law. In addition, we require a bachelor's degree in a field of study other than law. We require degrees from institutions that are accredited by accepted accrediting bodies, or we require direct or heightened scrutiny of non-accredited institutions.

As a profession, we did not always expect seven years of higher education to become a lawyer. We were originally a trade that learned the profession through tutelage. When law started being taught as a collegiate course of study, we permitted undergraduates to study law, earn the LL.B., and sit for the Bar. That course of study, like engineering, generally required five years of higher education.

In the 1950s, the American Bar Association pressed for, and the Court accepted for Tennessee, a higher educational standard for prospective lawyers. The general norm of seven years of higher education became the standard across the country. It remains the standard today.

The amendments proposed by UT and Vanderbilt, which would eliminate "general equivalency" as the standard of education for prospective foreign-trained lawyers, would undercut our requirements for Americans. While it may be appropriate to reconsider whether seven years of higher education should be our educational standard, until we reconsider that standard for everyone, we should maintain equivalent standards for Americans and non-Americans. If anything, we should be more cautious about the educational backgrounds of individuals who have not grown up immersed in American culture and American values, particularly American constitutionalism.

I have been an Adjunct Professor of Law at Vanderbilt for almost fifteen years. Obviously, my views expressed here do not represent the views of Vanderbilt University. My experience teaching LL.M. students has reinforced my view regarding the propriety of the existing rule. Quite frankly, my LL.M. students have not, in the main, been properly prepared to become American lawyers. Even if they can learn the jargon of American law, their different social and educational backgrounds are, in my experience, often a significant hindrance to the development of good legal judgment within the American legal system. Creating lower standards for non-Americans is wholly unjustified, based on my experience.

Thank you for soliciting comments regarding this matter.

Respectfully,



C. Mark Pickrell