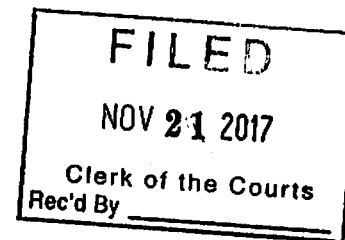


**From:** "marietta shipley" <marietta@mariettashipley.com>  
**To:** <lisa.marsh@tncourts.gov>  
**Date:** 11/21/2017 4:18 PM  
**Subject:** TN Courts: Submit Comment on Proposed Rules



Submitted on Tuesday, November 21, 2017 - 5:18pm  
Submitted by anonymous user: [108.205.228.69]  
Submitted values are:

Your Name: marietta shipley  
Your Address: 2809 Wimbledon Road  
Your email address: marietta@mariettashipley.com  
Your Position or Organization: 2015  
Rule Change: Proposed Amendment to add rule addressing Collaborative Family Law  
Docket number: - ADMIN2017-01195  
Your public comments:  
Collaborative Rule Comment by Marietta M. Shipley, Nashville, Tennessee

I write in support of Proposed Rule 53, on the Practice of Collaborative Law in Tennessee. I have been an attorney since 1976, a judge for 16 years, a mediator/arbitrator for 11 years and collaborative attorney for seven years.

In 1996, the Supreme Court passed Rule 31, the first court approved structure for Alternative Dispute Resolution. The Rule provided that upon its own motion or motion of either party, the court could send attorneys and litigants to mediation and other non-binding processes. At the time, there were a few voluntary mediations and mediation programs scattered across the state. Since 1996, over a thousand mediators have been trained in a 40 hour training and become listed by the Supreme Court. Now either by court rule or designation of the judge, litigants mediate just prior to a jury trial or family court proceeding. Rule 31 was based on a study of surrounding states, such as Florida, Texas and North Carolina, where mediation flourished. We are at the same crossroads for family law in 2017. If passed, Tennessee will be the 17th state to adopt a Rule or Uniform Act, while 10 other states practice collaborative law, particularly Family Law.

The Collaborative Law process proceeds at the beginning of a divorce or other family proceeding. Husbands and Wives /fathers and mothers seek out such a process that only involves the Court at the "blessing stage," where court approval is required for a Marital Dissolution Agreement and Parenting Plan. After advice and counsel the parties choose to treat their divorce like a team business proceeding. They employ two collaborative divorce attorneys, generally one neutral financial professional and one mental health professional, acting as a coach/mediator. After a series of face to face meetings, with the various professionals and team meetings, the parties, if successful, enter into an agreement, and submit a Marital Dissolution Agreement and/or Parenting Plan. This process can be used for pro bono cases or cases involving complicated cases for people of means.

The beauty of the collaborative process is that like mediation, the parties concentrate on the future of the family. Although acknowledged, acts of the past, which are the centerpiece of litigated divorces, have little place in the collaborative process. The goal is for the family to come out of the process, not necessarily friends, but co-parents for their children for the

rest of their lives. The parents should be able to go to soccer games, ballet recitals, graduations, weddings, births and other significant events without causing trauma to their children and themselves. In the initial sessions, attorneys and other professionals address the goals of the parents or husband and wife. In almost 100% of cases, parents wish the divorce process to have a limited impact on their children. Although they wish to be financially stable, they do not seek to do harm to the other spouse, no matter how hurt or sad they are over the divorce. Therefore, in this atmosphere, they can make good decisions with the help of the neutral professionals and their collaborative attorneys that will benefit the family as well as themselves.

Does every case end in an agreement ? Not always. After all we have the court to handle litigated cases with no settlement in regular litigated cases. We as collaborative professionals have been handling collaborative cases since 2009, when Collaborative Law was introduced to Tennessee. As the Rule states, attorneys and other professionals must complete a 20 hour training. Those of us who practice collaborative law have been to numerous additional trainings. Although not stated in the rule, most professionals are Rule 31 listed mediators. As we have more cases, we keep learning and perfecting our skills . We learn better how to choose clients who will benefit from collaborative law and be helped by this process. We keep learning how to better work in a team, shedding our natural advocacy bent as attorneys. We all believe strongly in the collaborative process as opposed to the litigation process.

Is this an expensive process? Yes, it can be, but it must be viewed in context. A total collaborative team for a complicated divorce costs about \$20,000 or more for a case with four or five team meetings and a full team. The same issues in a litigated divorce would cost upwards of \$100,000, with court hearings, formal discovery and depositions, even without a final hearing. The very first collaborative processes in Tennessee had pro bono clients in Linda Seely's legal services cases, so the process may be utilized for a variety of budgets, complexity and emotional conflict.

Is this a safe and fair process? The first rule is transparency. The husband and wife sign a "participation agreement" which outlines their agreement they will not seek a court process, such as the use of motions, answers and counter-complaints, or depositions , while in the collaborative process. Secondly they agree they will disclose all assets, income and debts. The Rule provides that once such assets, etc. are disclosed, both parties sign that list under oath. The parties may, of course, decide to quit collaborative law, but realize their attorney may not be the attorney for a litigated divorce , nor will they be able to subpoena the professionals to court, unless all parties agree.

Is the Court involved in Collaborative Law cases? Unlike mediation, the court or its judicial officers have no role in sending cases to collaborative attorneys. The same approval process is applicable to collaborative cases as well as litigated or non-contested cases. It is an entirely voluntary process. If during the case, there are issues of domestic violence that cannot be resolved by the team, the court becomes involved in Restraining Orders and Orders of Protection and likely the case will be handed over to litigation attorneys.

Why is this Rule valuable and necessary? As with mediation before and

after Rule 31, the dissemination of this rule will give attorneys confidence to start engaging in Collaborative Law, by getting training and founding practice groups in their geographical area as well as educating the public. The most important value of the Rule is the concept that families have an alternative to litigation at the front end of their family matter. Presently contested cases are settled either at mediation at the end of a protracted case or by a judicial settlement officer, shortly before trial. Collaborative Law cases, which are appropriate for the process, start with the modicum of good will and build on that good will throughout the process. Such families can often spend holidays or vacations together or at least have civil discussions on the logistics.

Thus, I wholeheartedly support Collaborative Law and this Collaborative Rule for those families that have an appropriate emotional state, needing no court intervention, and have a track record of transparency in their dealings with the other spouse. I request that the Supreme Court approve Rule 53.

Marietta M. Shipley  
The Mediation Group of Tennessee  
2809 Wimbledon Road  
Nashville, Tennessee 37215  
[www.mariettashipley.com](http://www.mariettashipley.com)  
[marietta@mariettashipley.com](mailto:marietta@mariettashipley.com)  
615 292-6069

The results of this submission may be viewed at:  
<http://www.tncourts.gov/node/602760/submission/20873>

IN THE SUPREME COURT OF TENNESSEE  
AT NASHVILLE

FILED

2017 NOV 21 PM 2:21

In Re: **PETITION TO ADOPT A NEW RULE OF THE TENNESSEE SUPREME COURT CONCERNING THE PRACTICE OF COLLABORATIVE FAMILY LAW**

---

No. ADM2017-01195

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**COMMENT OF THE NASHVILLE BAR ASSOCIATION TO PETITION TO ADOPT A NEW RULE OF THE TENNESSEE SUPREME COURT CONCERNING THE PRACTICE OF COLLABORATIVE FAMILY LAW**

Comes now the Nashville Bar Association, pursuant to Order filed August 22, 2017, and submits the following Comment to Petition to Adopt a New Rule of the Tennessee Supreme Court Concerning the Practice of Collaborative Family Law:

1. The Nashville Bar Association joins the Tennessee Bar Association in recommending adoption of the Uniform Collaborative Law Rule for Family Law as a new rule of the Tennessee Supreme Court (proposed new Rule 53 of the Supreme Court of the state of Tennessee), with consideration of the additional issues set forth below.

2. A significant number of family law attorneys in Nashville and Middle Tennessee have offered collaborative family law services for a number of years with success. Most of those attorneys, but not all, have taken it on themselves to participate in special training in the practice. Most follow the accepted defining characteristics of collaborative family law which primarily include (1) agreement between the parties and counsel to engage in the collaborative process as an alternative to adjudicating the matter through traditional court litigation, (2) the withdrawal of counsel in the event settlement cannot be reached and court

intervention is required, and (3) complete, voluntary disclosure of relevant information that would be gathered in the discovery phase.

3. Adoption of a rule by the court would protect consumers of legal services and protect the integrity of the collaborative process. As the concept of collaborative law becomes more familiar to the public, some may hold themselves out as offering such services without following, or understanding, its features. By adopting the uniformly accepted definition of collaborative family law, as many states have already done, clients seeking the collaborative process would be assured that collaborative family law practice in Tennessee is consistent and in conformity with collaborative family law practice in other states.

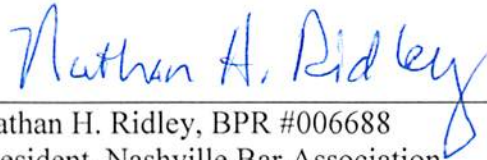
4. The Nashville Bar Association requests the Court consider minimum training requirements in collaborative family law for attorneys representing to the public that they offer services in collaborative family law as part of proposed new Rule 53.

5. In addition, the Nashville Bar Association requests the Court consider the addition of language emphasizing that the mandatory withdrawal of counsel provision contained in the collaborative family law participation agreement may not be contractually waived by the parties and their counsel if the collaborative family law process is not successful.

6. While collaborative family law, like mediation and traditional litigation, is not a perfect solution for every client, it is a method of case resolution that should be available on a voluntary basis with a uniformly accepted definition. The Nashville Bar Association encourages adoption of the Tennessee Bar Association's proposed new Tennessee

Supreme Court rule regarding collaborative family law, with consideration of the additional comments herein.

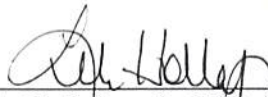
Respectfully Submitted,



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Nathan H. Ridley, BPR #006688  
President, Nashville Bar Association

Bradley Arant Boult Cummings LLP  
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Nashville, Tennessee 37203  
(615) 244-2582  
[nridley@bradley.com](mailto:nridley@bradley.com)



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Lela Hollabaugh, BPR #014894  
General Counsel, Nashville Bar Association

Bradley Arant Boult Cummings LLP  
1600 Division Street  
Nashville, Tennessee 37203  
(615) 244-2582  
[lhollabaugh@bradley.com](mailto:lhollabaugh@bradley.com)

**Certificate of Service**

I certify that the foregoing has been mailed by regular, first-class, U.S. mail, postage prepaid on the 4<sup>th</sup> date of November, 2017 to the following:

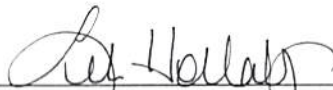
James M. Hivner, Clerk  
Re: Collaborative Family Law  
Tennessee Appellate Courts  
100 Supreme Court Building  
401 7th Avenue North  
Nashville, TN 37219-1407

Monica W. Mackie  
Executive Director  
Nashville Bar Association  
150 4th Ave N, Suite 1050  
Nashville, TN 37219



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NATHAN H. RIDLEY, BPR #006688  
President, Nashville Bar Association



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LELA HOLLABAUGH, BPR #014894  
General Counsel, Nashville Bar Association

**FILED**  
NOV 21 2017  
Clerk of the Courts  
Rec'd By \_\_\_\_\_

**IN THE SUPREME COURT OF TENNESSEE  
AT NASHVILLE**

**In Re: PETITION TO ADOPT A NEW RULE OF THE TENNESSEE SUPREME  
COURT CONCERNING THE PRACTICE OF COLLABORATIVE FAMILY LAW**

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**No. ADM2017-01195**

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**COMMENT**

Comes now Attorney Caroline G. Beauchamp, as the President of the Board of the Middle Tennessee Collaborative Alliance ("MTCA"), and submits the following Comment in support of the Tennessee Bar Association's Petition to Adopt a New Rule of the Tennessee Supreme Court Concerning the Practice of Collaborative Family Law:

The MTCA was formed in 2010 by a group of attorneys, mental health practitioners, and financial professionals who were interested in promoting the collaborative process as a form of alternative dispute resolution in the Middle Tennessee area. At this time, members of the MTCA include seventeen attorneys, nine mental health professionals, and four financial neutrals. Members are required to attend a fourteen-hour training in the collaborative process as well as in interest-based negotiation training, such as mediation.

We attend monthly membership meetings, which include discussions about best practices, and participate in continuing education. Many of the members of the organization are also members of the International Academy of Collaborative Professionals and have attended that organization's annual conference. In the last eight years, more than one hundred divorce cases have been successfully resolved in Middle



Tennessee by members of the MTCA utilizing the collaborative process. In a recent survey of our members, 93% of cases attempted in the process were resolved successfully within the process.

Although no process is perfect or even ideal for every case, the collaborative process provides a framework to enable those divorcing individuals who desire to engage in a process marked by civility to do so. While divorce most often includes at least some conflict between the parties, the collaborative process addresses the conflict head-on in a respectful and grounded way with an eye toward meeting both parties' needs. The process provides privacy for those individuals who wish to avoid having sensitive personal information in the public record. Further, within the confines of the law and subject to Court approval, the collaborative process enables the parties to have a say in the outcome of their divorce case and provides a forum within which creative solutions to difficult issues may be generated.

The facts of the case, client preference, and attorney experience all inform the decisions around the best and most efficient configuration of professionals to support the family. In my experience, many parties, in litigation and alternative dispute resolution processes, prefer to engage in an informal discovery process rather than full written discovery and depositions. The collaborative process provides efficiencies to those individuals desiring to avoid the emotional and financial cost of full written discovery and depositions. Specifically, the engagement of a neutral financial professional enables the gathering of relevant information by one individual rather than by two attorneys. Because the collaborative process requires full disclosure of relevant

financial information that is verified by a credentialed financial expert, reviewed by both attorneys, and culminates in the execution of a sworn statement of assets and liabilities, it provides as thorough information as any other informal discovery process, and often more.

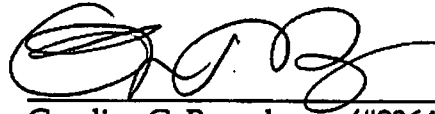
Engaging a mental health professional, with experience and training in facilitating decision-making under difficult circumstances, helps individuals successfully participate in productive discussions, even when emotions run high. The mental health professionals aid clients in prioritizing their goals and make the process it more efficient and more likely to result in mutually beneficial and durable agreements.

The collaborative process is not for everyone, but, for those individuals who have the capacity to provide information and negotiate in good faith and who seek to maintain a cordial relationship post divorce, this process provides significant chances of success. Again and again, I, personally, have seen parents leave the process better able to communicate and co-parent than they were when the process began.

I respectfully request that this Court adopt proposed Rule 53 of the Tennessee Supreme Court, as I strongly believe that it will encourage and support the future growth of the collaborative process in our state by creating minimum standards for practitioners to follow and consistency for consumers.

Respectfully submitted,

*McCarter & Beauchamp, PLLC*

A handwritten signature in black ink, appearing to read 'C. Beauchamp', written over a horizontal line.

Caroline G. Beauchamp (#23645)

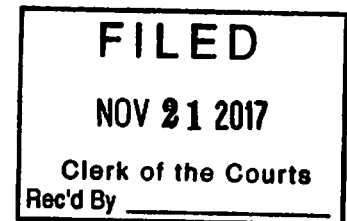
5110 Maryland Way, Suite 290

Brentwood, TN 37027

(615) 219-0000

*President, Middle Tennessee Collaborative Alliance*

James M. Hivner, Clerk  
Re: Collaborative Family Law  
Tennessee Appellate Courts  
100 Supreme Court Building  
401 7<sup>th</sup> Avenue North  
Nashville, TN 37219-1407



Re: **In re: Petition to Adopt a New Rule of the Tennessee Supreme Court  
Concerning the Practice of Collaborative Family Law**  
No. ADM2017-01195

Dear Mr. Hivner:

As a member of the Board of the Middle Tennessee Collaborative Alliance ("MTCA"), I am writing to support the Petition to Adopt a New Rule of the Tennessee Supreme Court Concerning the Practice of Collaborative Family Law. I am a mental health professional that believes this practice enables couples to write the narrative of how their relationship will work going forward as separate entities.

The Collaborative Divorce process gives couples a chance to make fully informed decisions together in real time. They each get a voice in the room while being guided by their attorney and informed by the financial neutral. As the mental health coach, I get to help them navigate difficult conversations and the emotions that arise as they undo what was supposed to be a permanent bond.

Many couples walk away with stronger conflict resolution skills enabling them to co-parent better than before. It is often noted in the therapy industry, that it is not the divorce that harms the child as much as it is the level of conflict that the child witnesses. When children see their parents handle conflict in a healthy way, they learn skills to do likewise.

While there is no divorce process that is perfect, I believe the collaborative process empowers clients to be more engaged in how their marriage ends and what their future holds. That is why I support this new rule and hope it sets the stage for creating minimum standards for practitioners to follow and consistency for consumers.

I respectfully request that this Court adopt proposed Rule 53 of the Tennessee Supreme Court.

Sincerely yours,

Jenny Emerson, LMFT  
Secretary, Middle Tennessee Collaborative Alliance

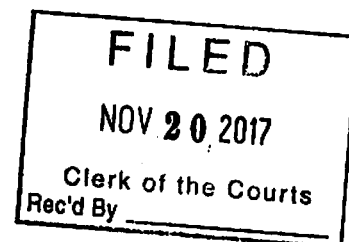
**IN THE SUPREME COURT OF TENNESSEE  
AT NASHVILLE**

**In Re: PETITION TO ADOPT A NEW RULE OF THE TENNESSEE SUPREME COURT  
CONCERNING THE PRACTICE OF COLLABORATIVE FAMILY LAW**

---

**No. ADM2017-01195**

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**COMMENT**

Comes now Julia A. McAninch, Psy.D., Licensed Psychologist, pursuant to Order filed August 22, 2017, and submits the following Comment in support of the Tennessee Bar Association's Petition to Adopt a New Rule of the Tennessee Supreme Court Concerning the Practice of Collaborative Family Law:

1. I have been licensed as a Psychologist in Tennessee since 2007, have been a Rule 31 Listed Family Mediator since 2014 and focus a substantial portion of my practice as a Mental Health Professional on supporting clients, families, attorneys, and other divorce professionals through the divorce process.

2. I was trained as a Collaborative Divorce Coach in 2009, was a Founding Board Member of the Middle Tennessee Collaborative Alliance, am a Past Vice-President and Past President of the organization having served eight consecutive years on the Board. I have been an active member of the International Academy of Collaborative Professionals (IACP) since 2010, having attended the organization's annual conference six times, and having presented workshops at the conference four times. I am a graduate of their Inaugural Leadership Academy and am recognized as a Collaborative

Divorce trainer by the IACP and have co-led Collaborative Divorce training workshops to hundreds of participants around the country since 2015.

3. I am one of the first Collaborative Divorce Coaches in Tennessee and have trained other Collaborative Divorce Coaches in the state and other areas of the country. During the eight years in which I have served as a Collaborative Divorce Coach, I have been involved in approximately seventy (70) Collaborative Divorce cases. Of those seventy cases, all but approximately five cases either settled using the Collaborative Divorce process or are still pending and are expected to be resolved within the process.

4. Collaborative Divorce acknowledges that divorce is a significant life event during which clients must make many decisions about legal, emotional, and financial issues. Divorce is one of the major life events that leads to stress, maladjustment, and at times even crises for individuals and families. The support of collaboratively trained financial and mental health professionals as neutral experts to educate and assist the clients with a more holistic approach to their divorce increases the likelihood that clients will respectfully achieve a mutually-acceptable durable agreement for themselves and their families.

5. As a Collaborative Divorce Coach and Licensed Mental Health Professional, I have found that clients who choose a Collaborative Divorce process experience greater emotional and communication support that aids them in reducing conflict and reaching a mutually-acceptable durable agreement. Per research on the impact of divorce on children, when co-parents are able to reduce exposing their children to conflict, their children have a greater chance of being well adjusted and it reduces the potential negative impacts of divorce. By having a Collaborative Divorce Coach who is a Licensed Mental Health Professional trained in child development and family systems, it provides the co-parents access to information to make well informed decisions to support their children during and

after the divorce. Having a Neutral Collaborative Financial Professional provides the clients with a more sophisticated understanding of the financial matters through financial education and creative problem solving for the family and helps the clients reach mutually acceptable durable agreements, which further decreases the potential for post-divorce conflicts. Collaborative Divorce is a voluntary process in which clients receive assistance with the financial and emotional concerns that arise in divorce in the nuanced way trained, neutral experts can achieve, while still receiving needed legal representation.

6. I recognize that the proposed Rule addresses only the role of the attorneys. In my experience, clients choosing Collaborative Divorce almost always include neutral financial and mental health professionals in their process. Because effective use of neutral collaboratively trained financial and mental health experts is critical to the underlying premise that Collaborative Divorce addresses the legal, emotional, and financial elements of divorce, I respectfully ask that the Court consider including language to address the use of such professionals in the Collaborative Divorce process.

7. The proposed Rule does not address any education or training minimum or continuing education requirements. While training cannot assure the quality of service clients will receive, the average consumer may reasonably assume that a professional who lists Collaborative Family Law on their website or professes to practice the same has been trained to do so. I respectfully ask the Court to consider the addition of minimum and continuing education requirements for all Collaborative Family Law professionals, attorneys and non-attorneys, as necessary for the reasonable protection of the consumer in a similar manner to the applicability of Rule 31 to professionals who serve as Rule 31 Mediators.

8. The Tennessee Supreme Court's adoption of proposed Rule 53 would provide an additional structured and sanctioned process for Tennessee families who want a less adversarial, more supportive approach to navigating the difficult experience of divorce.

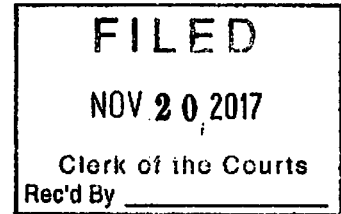
7. I respectfully ask this Court to adopt proposed new Tennessee Supreme Court Rule 53, officially recognizing the Collaborative Process as a viable option for families to resolve their disputes in Tennessee.

Respectfully Submitted,

---

**Julia A. McAninch, Psy.D. (TN#2761)**  
McAninch Psychological & Consulting Services, PLLC  
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Nashville, TN 37212  
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Julia@mcaninchpsychological.com





**IN THE SUPREME COURT OF TENNESSEE  
AT NASHVILLE**

**In Re: PETITION TO ADOPT A NEW RULE OF THE TENNESSEE SUPREME COURT  
CONCERNING THE PRACTICE OF COLLABORATIVE FAMILY LAW**

---

**No. ADM2017-01195**

---

**COMMENT**

Comes now Cheryl Panther, Certified Public Accountant, pursuant to Order filed August 22, 2017, and submits the following Comment in support of the Tennessee Bar Association's Petition to Adopt a New Rule of the Tennessee Supreme Court Concerning the Practice of Collaborative Family Law:

1. I have been licensed as a Certified Public Accountant (CPA) in Tennessee since 1990, have been a Rule 31 Listed Family Mediator since 2016 (trained in 2013), and have devoted the majority of my practice as a CPA/financial planner to services for clients and attorneys in family law matters since 2011. While I have served as a consulting and testifying expert in family law litigation and have served as a mediator in family law matters, participation in Collaborative Family Law matters as a Neutral Collaborative Financial Professional has been a focus of my practice since early 2014.

2. I received my initial training as a Collaborative Financial Professional in 2013 at the International Academy of Collaborative Professionals headquarters in Phoenix, Arizona. Since then, I have participated in two additional multi-day collaborative trainings sponsored by the Middle Tennessee Collaborative Alliance (MTCA). I have served on the board of directors for MTCA since 2014, and will serve as MTCA's president-elect in 2018. I have been actively involved with the International Academy of Collaborative Professionals (IACP) since 2015, attending the organization's annual conference three

times, and presenting a workshop at the October 2017 conference. I am recognized as a Collaborative Divorce trainer by the IACP and have co-led Collaborative Divorce training workshops.

3. During the four years in which I have served as a Neutral Collaborative Financial Professional, I have been involved in approximately forty (40) Collaborative Divorce cases. Of those forty cases, all but two cases either settled using the Collaborative Divorce process or are still pending and are expected to be resolved within the process.

4. Collaborative Divorce acknowledges that divorce is a significant life event during which clients must make many decisions about legal, emotional, and financial issues. The support of collaboratively trained financial and mental health professionals as neutral experts to educate and assist the clients with a more holistic approach to their divorce increases the likelihood that clients will respectfully achieve a mutually-acceptable, durable agreement for themselves and their families. As a Neutral Collaborative Financial Professional, I have found that clients who choose a Collaborative Divorce process experience greater understanding of their financial affairs and are able to make well-informed decisions that minimize financial stress for the family system post-divorce. For clients who have children together, the involvement of a Neutral Mental Health Professional benefits their ability to effectively co-parent their children post-divorce, as well as helping them navigate conflict during the divorce in a respectful and non-adversarial manner. Collaborative Divorce is a voluntary process in which clients receive assistance with the financial and emotional concerns that arise in divorce in the nuanced way trained, neutral experts can achieve, while still receiving needed legal representation.

5. I recognize that the proposed Rule addresses only the role of the attorneys. In my experience, clients choosing Collaborative Divorce almost always include neutral financial and mental health professionals in their process. Because effective use of neutral collaboratively trained financial and mental health experts is critical to the underlying premise that Collaborative Divorce addresses the legal,

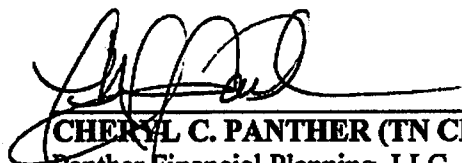
emotional, and financial elements of divorce, I respectfully ask that the Court consider including language to address the use of such professionals in the Collaborative Divorce process in a similar manner to the applicability of Rule 31 to non-attorney professionals who serve as Rule 31 mediators.

6. The proposed Rule does not address any education or training minimum or continuing requirements. While training cannot assure the quality of service clients will receive, the average consumer may reasonably assume that a professional who lists Collaborative Family Law on their website or professes to practice the same has been trained to do so. I respectfully ask the Court to consider the addition of minimum and continuing education requirements for all Collaborative Family Law professionals, attorneys and non-attorneys, as necessary for the reasonable protection of the consumer.

7. The Tennessee Supreme Court's adoption of proposed Rule 53 would provide an additional structured and sanctioned process for Tennessee families who want a less adversarial, more supportive approach to navigating the difficult experience of divorce.

7. I respectfully ask this Court to adopt proposed new Tennessee Supreme Court Rule 53, officially recognizing the Collaborative Process as a viable option for families to resolve their disputes in Tennessee.

Respectfully Submitted,



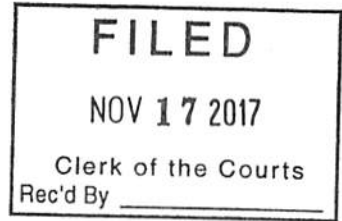
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**CHERYL C. PANTHER (TN CPA #11605)**  
Panther Financial Planning, LLC  
1 Glen Abbey Court  
Nashville, TN 37215  
615-507-2093  
cpanther@pantherfinancialplanning.com



November 17, 2017

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

Knoxville Bar Association  
505 Main Street, Suite 50  
P.O. Box 2027  
Knoxville, TN 37901-2027  
PH: (865) 522-6522  
FAX: (865) 523-5662  
[www.knoxbar.org](http://www.knoxbar.org)

Re: Petition to Adopt a New Rule of the Tennessee Supreme Court Concerning the Practice of Collaborative Family Law  
No. ADM2017-01195

**Officers**

Amanda M. Busby  
*President*

Keith H. Burroughs  
*President-Elect*

Wynne du Mariau Caffey-Knight  
*Treasurer*

Hanson R. Tipton  
*Secretary*

Wayne R. Kramer  
*Immediate Past President*

**Board of Governors**

Dwight L. Aarons

E. Michael Brezina III

Kathryn St. Clair Ellis

Lisa J. Hall

Dana C. Holloway

Rachel P. Hurt

Stephen Ross Johnson

Mary D. Miller

Carrie S. O'Rear

T. Mitchell Panter

M. Samantha Parris

Cheryl G. Rice

John E. Winters

Dear Mr. Hivner:

Pursuant to the Tennessee Supreme Court's Order referenced above, the Knoxville Bar Association ("KBA") Professionalism Committee ("Committee") has carefully considered the new rule which would address the practice of "Collaborative Family Law." At the KBA Board of Governors' (the "Board") meeting held on October 18, 2017, the Committee presented a detailed report of its review of the Petition. The Committee solicited input from members of the judiciary, representatives of the Family Law Section and the leadership of the East Tennessee Collaborative Alliance. Following the Committee's presentation and thorough discussion by the Board, the Board as a whole unanimously adopted the Committee's recommendation to file this comment in support of the Petition.

As always, the KBA appreciates the opportunity to comment on proposed Rules and changes to such Rules promulgated by the Tennessee Supreme Court.

Sincerely,

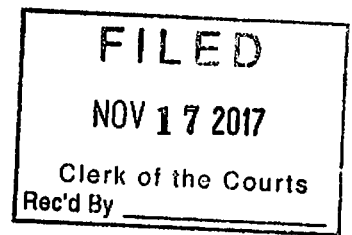
A handwritten signature in black ink that reads "Amanda M. Busby". The signature is written in a cursive style.

Amanda M. Busby, President  
Knoxville Bar Association

Enclosures

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

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



**IN THE SUPREME COURT OF TENNESSEE  
AT NASHVILLE**

**In Re: PETITION TO ADOPT A NEW RULE OF THE TENNESSEE SUPREME COURT  
CONCERNING THE PRACTICE OF COLLABORATIVE FAMILY LAW**

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**No. ADM2017-01195**

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**COMMENT**

Comes now Attorney Benjamin Papa, pursuant to Order filed August 22, 2017, and submits the following Comment in support of the Tennessee Bar Association's Petition to Adopt a New Rule of the Tennessee Supreme Court Concerning the Practice of Collaborative Family Law:

1. I have been licensed to practice law in Tennessee since 2000, have been a Rule 31 Listed Family Mediator since 2003, and have been in full time private practice, exclusively in the area of family law, since 2006. I am a member of the Tennessee Bar Association and Nashville Bar Association and join those organizations in recommending adoption of the Uniform Collaborative Law Rule for Family Law as a new Rule of the Tennessee Supreme Court (proposed new Rule 53 of the Supreme Court of the state of Tennessee).

2. I was trained as a Collaborative Divorce attorney in 2009, was the Founding President of the Middle Tennessee Collaborative Alliance, and have served on the organization's Board of Directors for three terms. I have been an active member of the International Academy of Collaborative Professionals (IACP) since 2009, having attended the organization's annual conference eight times, and having presented workshops at the conference twice. I am recognized as a Collaborative Divorce trainer by the

IACP and have co-led Collaborative Divorce training workshops to hundreds of participants around the country since 2015.

3. In my own private practice, I have been involved in approximately seventy-five (75) Collaborative Divorce cases to date. Of those seventy-five cases, all but five cases either settled using the Collaborative Divorce process or are still pending and are expected to be resolved within the process. Of the five that did not settle in the process, four settled out of court otherwise. The fifth is still pending and its status is not clear.

4. The philosophical premise behind Collaborative Divorce is that divorce is a major life event (or crisis) that includes legal, emotional, and financial elements, and that most divorce clients are best served if all three facets of the divorce are addressed. In general terms, the process is geared toward clients who have made the difficult decision to divorce, but who wish to move through the process in a respectful way, and in a way that, if they have children together, facilitates their ability to be effective co-parents after the divorce. While I recognize that the proposed Rule speaks only to the role of the attorneys, from a public policy perspective, I would respectfully encourage the Court to consider the niche that this process offers clients who choose to access the process as a more holistic approach to divorce.

5. Collaborative Divorce is distinct from litigation in obvious ways as set forth in the proposed Rule, and distinct from mediation in the sense that clients must be represented by Collaborative Attorneys, whereas clients can choose to use mediation without legal counsel. In addition, neither litigation nor mediation is structured in ways that facilitate the active involvement of a mental health and/or financial professional to help the clients navigate the nearly ubiquitous emotional and financial issues that come up in divorce for which most attorneys lack any real professional expertise.<sup>1</sup> In short,

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<sup>1</sup> In my personal practice, clients have chosen to utilize the professional services of either a financial neutral professional or a neutral mental health professional in 95% of my Collaborative Divorce cases to date. In fact, 72% have chosen to hire professionals from all three areas – legal, emotional, and financial.

Collaborative Divorce fills an important gap between clients who need more support and structure than mediation affords, but who are not interested in framing the divorce primarily as an adversarial competition in the ways litigation tends to do.

6. No client can be forced to engage in a Collaborative Divorce. There will always be clients who need or want to resolve their divorce using the traditional litigation process. Having the Tennessee Supreme Court adopt proposed new Rule 53 would provide an additional structured, sanctioned, and supportive process for Tennessee families who are already navigating one of the most stressful experiences that occurs in our culture.

7. I would respectfully ask this Court to adopt proposed new Tennessee Supreme Court Rule 53, officially recognizing the Collaborative Divorce process as a viable option for divorcing families in Tennessee.

Respectfully Submitted,

**SENT VIA ELECTRONIC MAIL**

---

**BENJAMIN PAPA, #20910**  
Papa & Roberts, PLLC  
1612 Westgate Circle, Suite 220  
Brentwood, TN 37027  
615-767-5900  
bpapa@paparoberts.com

# Cabaniss Johnston

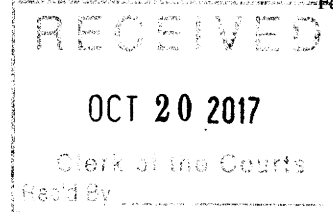
CABANISS, JOHNSTON, GARDNER, DUMAS & O'NEAL LLP

Mailing Address:  
P.O. Box 830612  
Birmingham, Alabama 35283-0612  
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Melanie Merkle Atha  
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Riverview Plaza  
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Mobile, Alabama 36602  
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Facsimile: (251) 415-7350

October 18, 2017



ADM2017-01195

James M. Hivner, Clerk  
Tennessee Appellate Courts  
100 Supreme Court Building  
401 7<sup>th</sup> Avenue North  
Nashville, TN 37219

Re: In re: Petition to Adopt a New Rule of the Tennessee Supreme  
Court Concerning the Practice of Collaborative Family Law  
No. ADM2017-01195

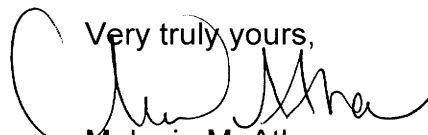
Dear Mr. Hivner:

I am writing as co-chairman of the American Bar Association Section of Dispute Resolution's Collaborative Law Committee and as President of the Global Collaborative Law Council in support of the Tennessee Bar Association's petition to adopt rules which would govern the practice of Collaborative Law in Tennessee.

I have been practicing collaborative law in Alabama since 2011. Alabama adopted the Uniform Collaborative Law Act effective January 1, 2014, and in 2015, our Supreme Court adopted the privilege rules which govern the practice of collaborative in Alabama. Having practiced both before and after the legislation and rules were promulgated in my home state, I can affirm that the presence of a set of rules governing the practice gives the work the legitimacy and formal structure needed to advance the practice for the benefit of the citizens of my state and the lawyers endeavoring to help them.

I encourage the Supreme Court of Tennessee to adopt rules for this hopeful, creative, voluntary, confidential form of limited scope representation, which will help Tennessee families in legal conflict to find efficient resolution to their disputes.

Thank you for your consideration.

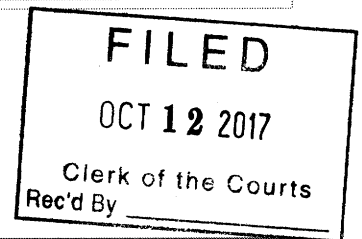
Very truly yours,  
  
Melanie M. Atha

MMA:pkc



**Lisa Marsh - Fwd: Collaborative Family Law - No. ADM2017-01195**

**From:** appellatecourtclerk  
**To:** Marsh, Lisa  
**Date:** 10/12/2017 9:00 AM  
**Subject:** Fwd: Collaborative Family Law - No. ADM2017-01195  
**Attachments:** IMAGE.jpeg; HARRY L TINDALL.vcf



>>> Harry L Tindall <Htindall@tindallengland.com> 10/11/2017 11:24 AM >>>

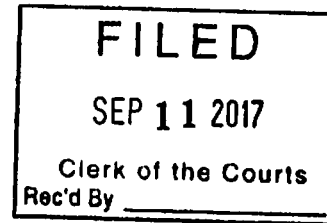
I write to support the proposed court rule in Tennessee Concerning The Practice of Collaborative Family Law. The practice of collaborative law in an entirely voluntary process. No litigant can be required to participate in the process. It is a form of alternative dispute process, that is confidential, all parties are represented by lawyers, and results in a high success rate of settlement and satisfaction with the process. It is particularly suited for family law cases, but has been applied to other civil cases as well. The proposed rules would provide clear rules for the process to guide litigants and lawyers. By legislation or court rule, the Uniform Collaborative Law Act/Rule has been adopted in 17 states. I urge the Supreme Court of Tennessee to adopt the proposed court rule.

By way of disclosure, I was involved in the first enactment of a collaborative law statute in Texas in 2001 as well as the Uniform Collaborative Law Act in Texas in 2011.

Respectfully submitted, Harry L Tindall

**HARRY L TINDALL**  
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(713) 622-8733 x21 Work  
(713) 540-9882 Mobile  
htindall@tindallengland.com  
1300 Post Oak Blvd Ste 1550  
Houston TX 77056-3081  
www.tindallengland.com

IN THE SUPREME COURT OF TENNESSEE  
AT NASHVILLE



**IN RE: PETITION TO ADOPT A NEW RULE OF THE TENNESSEE  
SUPREME COURT CONCERNING THE PRACTICE OF  
COLLABORATIVE FAMILY LAW**

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No. ADM2017-01195

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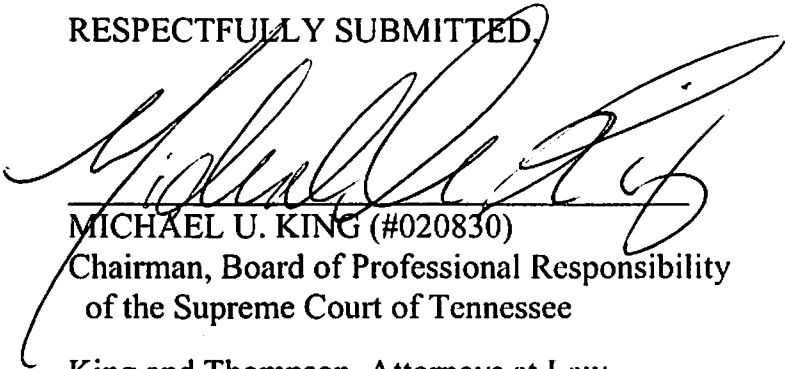
**COMMENT OF THE BOARD OF PROFESSIONAL  
RESPONSIBILITY TO PETITION TO ADOPT A NEW RULE OF  
THE TENNESSEE SUPREME COURT CONCERNING THE  
PRACTICE OF COLLABORATIVE FAMILY LAW**

Comes now the Board of Professional Responsibility (the Board), pursuant to Order filed August 22, 2017, and submits the following Comment to Petition to Adopt a New Rule of the Tennessee Supreme Court concerning the Practice of Collaborative Family Law:

1. The Board supports the Tennessee Bar Association's proposed new Tennessee Supreme Court rule regarding collaborative law since it provides a framework for Tennessee attorneys currently practicing collaborative family law.
2. The Board finds collaborative family law to be a type of limited scope practice permitted by Tenn. Sup. Ct. R. 8, RPC 1.2(c) provided that the limitation is reasonable under the circumstances and the client gives informed consent, in writing as required by Section 4 of the proposed new rule.
3. The Board supports Section 13 of the proposed rule which states, "This rule does not affect: (a) Except as provide in Sections 9 and 10, the professional responsibility obligations and standards applicable to a lawyer..."

Accordingly, the Board endorses the proposed collaborative family law rule, but notes that notwithstanding the exceptions in Sections 9 and 10 which must be discussed and agreed to in writing by the client, participating in this type of practice does not alter or diminish an attorney's ethical obligations to clients pursuant to the Rules of Professional Conduct.

RESPECTFULLY SUBMITTED.

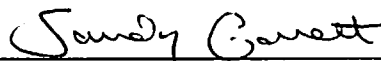


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MICHAEL U. KING (#020830)

Chairman, Board of Professional Responsibility  
of the Supreme Court of Tennessee

King and Thompson, Attorneys at Law  
12880 Paris Street  
P.O. Box 667  
Huntingdon, TN 38344-0667



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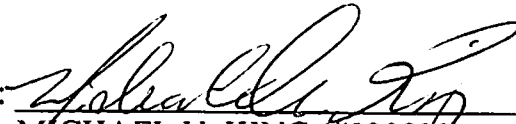
SANDY GARRETT (#013863)

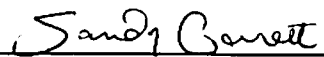
Chief Disciplinary Counsel,  
Board of Professional Responsibility  
of the Supreme Court of Tennessee

10 Cadillac Drive, Suite 220  
Brentwood, TN 37027

**Certificate of Service**

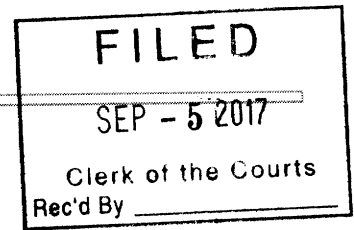
I certify that the foregoing has been mailed to Joycelyn Ashanti Stevenson, Esq., Executive Director, Tennessee Bar Association, 221 4<sup>th</sup> Avenue North, Suite 400, Nashville, Tennessee by U.S. mail, on this the 8 day of Sept, 2017.

By:   
MICHAEL U. KING (#020830)  
Chairman of the Board

By:   
SANDY L. GARRETT (#013863)  
Chief Disciplinary Counsel

**appellatecourtclerk - in re: docket number ADM2017-01195**

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**From:** John <johnselser@att.net>  
**To:** <appellatecourtclerk@tncourts.gov>  
**Date:** 9/4/2017 11:06 AM  
**Subject:** in re: docket number ADM2017-01195

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Comment regarding the proposed Supreme Court Rule on the practice of Collaborative Law: docket number ADM2017-01195

I am an attorney who practiced law for 30 years and ceased practicing law in order to devote myself full time to mediation. If I had learned about Collaborative Law earlier, I might still be practicing law, as I believe it is an excellent option for selected parties seeking a divorce without the polarizing effects of many typical lawyer driven divorces.

I applaud the Supreme Court in proposing these rules to outline and define, by court rule, the collaborative practice of law in Tennessee. Please accept this letter (transmitted via email only) as support for the proposed rule.

Thank you kindly for considering my comments.

Respectfully,  
John R. Selser  
865-457-4620  
johnselser@att.net  
311 Nave Street  
Clinton, TN 37716



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SANTORE & SANTORE  
ATTORNEYS AT LAW  
121 E. DEPOT ST.  
GREENEVILLE, TENNESSEE 37744

FILED  
AUG 23 2017  
Clerk of the Courts  
Rec'd By \_\_\_\_\_

SERVING THE PUBLIC AND THE PROFESSION SINCE 1965

FRANCIS X. SANTORE (1931 - 2004)

FRANCIS X. SANTORE, JR.\*

P.O. Box 113  
(423) 639-3511  
Fax (423) 639-0394

August 22, 2017

ADM2017-01195

Mr. James M. Hivner, Clerk  
TENNESSEE SUPREME COURT  
401 7<sup>th</sup> Avenue North, Suite 100  
Nashville, TN 37219-1407

IN RE: COLLABORATIVE FAMILY LAW PETITION COMMENTS

SENT VIA EMAIL ONLY—HARD COPY RETAINED—TO [appellatecourtclerk@tncourts.gov](mailto:appellatecourtclerk@tncourts.gov)

Dear Mr. Hivner:

Wow! Yet another way that, respectfully, our Supreme Court is chipping away at the profession of law, as it helps all the farmers and “lawyer haters” (e.g. former court reporter Mae Beavers) in the General Assembly, who gut our noble profession with their votes in the House and Senate, and then go to the latest party thrown for the legislators by their favorite lobbyist of choice, usually the insurance lobby, the manufacturers’ lobby, or the health care lobby, where booze and “other pleasures” (if you get my drift) are freely available to our solons. Why our learned Supreme Court has to facilitate this has never been comprehended by my rather small mind here in this small-town hick practice I have in northeast Tennessee. The only thing this does is reduce the 5% of the cases our jurists actually try to 3%: still a “George Jetson”-like occupation.

Soon anyone from any “jake leg” institution who calls themselves a “mediator”, “collaborative family lawyer,” “collaborative lawyer” (are we now going to have “solicitors” and “barristers”?), “licensed mental health therapist,” “CASA worker,” and so forth will join the thousands of “poor, destitute, *pro se* litigants” and say: “I can be an attorney, also. I don’t have to go through three years of Hell called law school. I don’t have to prepare for the worst two days one can ever experience, the Bar Examination. I don’t have to do any of this, because I’m a lawyer without portfolio!!!!!!”

I have talked myself blue in the face with multi-page screeds having been sent on numerous occasions to comment on issues that are already *faits accompli*. Since this is one, I am saving my efforts for trying to make money to pay my increasing overhead, in a milieu in which law school graduates, most ill-prepared for the actual practice of law, are being churned out like cockroaches.

Yours very truly,

SANTORE AND SANTORE

Francis X. Santore, Jr.

(Just another put-upon small-town lawyer trying to hold his head above water)