

Kim Meador - AMENDMENT OF RULE 21, RULES OF THE TENNESSEE SUPREME

ADM2020-01159

From: Steve Newton <sdnewton50@outlook.com>
To: "appellatecourtclerk@tncourts.gov" <appellatecourtclerk@tncourts.gov>
Date: 10/7/2020 5:57 AM
Subject: AMENDMENT OF RULE 21, RULES OF THE TENNESSEE SUPREME

FILED

OCT 07 2020

Clerk of the Appellate Courts
Rec'd By KJM

I believe that there is no empirical evidence to show that this is need for our attorneys in Nashville. This is simply a political stunt by parties that want to subvert our legal system.

Sincerely
Steve Newton

Kim Meador - CLE on diversity, inclusion

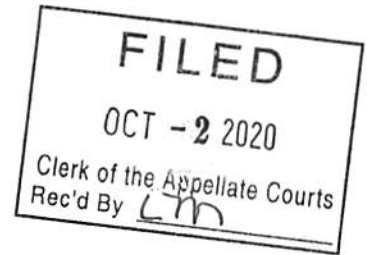
ADM2020-01159

From: Melody Bock <melodybock@yahoo.com>
To: "appellatecourtclerk@tncourts.gov" <appellatecourtclerk@tncourts.gov>
Date: 10/6/2020 10:02 AM
Subject: CLE on diversity, inclusion

FILED
OCT 06 2020
Clerk of the Appellate Courts
Rec'd By <u>KJM</u>

There are too many CLE hour requirements already. If you want to do this, require it once every 3 years, offer it for free and don't increase the minimum number of required hours of CLE each year. It is hard to ask working female attorneys with children to comply with so many CLE hours and then the Supreme Court is always asking them to do pro bono work on top of CLE. The Bar has never understood the difficulty of working parents.

As a female attorney, I found more discrimination within the firms I worked for dealing with pregnancy and partnership issues than I did while actually practicing law. I did have one Judge, now retired, give the opposing attorney a new trial based on the argument that I was pregnant while trying the case; and the jury must have felt sorry for me as the reason my client prevailed.



September 28, 2020

James M. Hivner, Clerk
RE: Tenn. Sup. Ct. R. 21, section 3.01
100 Supreme Court Building
401 Seventh Avenue North
Nashville, TN 37219-1407

**RE: Memphis Bar Association's Letter in Support of Nashville Bar Association's
Petition to Modify Tennessee Supreme Court Rule 21
Docket No. ADM2020-0115**

Dear Clerk Hivner,

Please accept this letter on behalf of the Memphis Bar Association ("MBA") in support of the Petition to Modify Rule 21 of the Tennessee Supreme Court ("Petition") filed by the Nashville Bar Association on August 28, 2020.

The MBA was established in 1874, four years before the founding of the American Bar Association. The MBA is a professional organization for attorneys in Memphis and the surrounding Mid-South area that seeks to provide a place for lawyers to grow, connect and serve. The MBA stands committed to ensuring diversity, equity, and inclusion in the practice of law, and recently created a Diversity and Outreach Committee that will focus on raising awareness and educating the membership around the issues of systemic racism, implicit bias, and diversity and inclusion within the legal profession.

In June, the MBA proudly participated in the Bar Unity March organized by the Ben F. Jones Chapter of the National Bar Association. Along with local judges, lawyers, and law students, MBA members proudly participated in a peaceful march to show that our local bar organizations stand unified in recognizing that because racism reaches every facet of our lives, it must be addressed within the legal community and legal system. Now we stand united with the Nashville Bar Association in support of its Petition requiring that all Tennessee lawyers educate themselves on topics related to diversity, inclusion, equity, and the elimination of bias every year.

For many years, the MBA has sought out speakers on issues related to these topics and encouraged its members to attend these sessions. For example, the MBA sought out nationally known speaker, Kimberly Pappillion, to speak at the 2017 Bench Bar Conference in St. Louis about the neuroscience of decision-making, which focused on the implicit biases we all have. Following



her presentation in St. Louis, Ms. Pappillion spoke to a number of different groups of legal professionals as part of a series presented by the MBA and the Center for Excellence in Decision Making ("CEDM"). Since that time, the MBA has continued to partner with the CEDM to present CLE sessions focused on diversity, inclusion, equity, and the elimination of bias.

As an organization, the MBA has been and remains committed to these important issues and proudly supports the Nashville Bar Association's Petition. To require all Tennessee attorneys to take two (2) hours of continuing legal education focused on diversity, inclusion, equity, and elimination of bias is but a small step toward ensuring that the legal profession can move past issues of systemic racism that have plagued our state and our nation for far too long.

Sincerely,

A handwritten signature in blue ink that reads "Lucie Brackin".

Lucie Brackin
President, Memphis Bar Association

appellatecourtclerk - ADM2020-01159 Comments

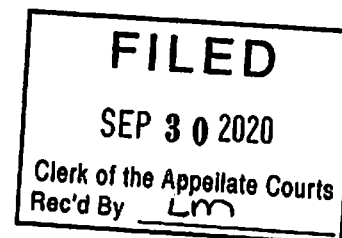
From: John Harris <jharris@slblawfirm.com>
To: "appellatecourtclerk@tncourts.gov" <appellatecourtclerk@tncourts.gov>
Date: 9/30/2020 11:57 AM
Subject: ADM2020-01159 Comments

Dear Sirs

As a practicing attorney in Tennessee, I oppose the petition of the Nashville Bar Association for many of the same reasons that President Trump has issued an Executive Order on September 22, 2020, regarding Combating Race and Sex Stereotyping training.

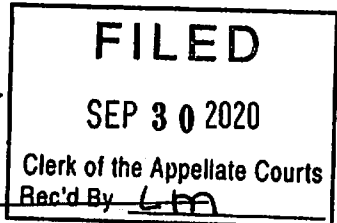
I urge the Court not to modify the existing CLE requirements by requiring annual hours devoted to diversity or sensitivity training. If individual attorneys, law firms, or employers want to provide this training as part of either the existing 3 hours of ethics requirements or as part of the required 12 hours of general credits, that can be done now. However, for many of Tennessee's practicing attorneys there is no need for a requirement of 2 hours of training on diversity or sensitivity annually.

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appellatecourtclerk - Re petition regarding docket No. ADM2020-01159

From: Richard Archie <RArchie@hmcompany.com>
To: "appellatecourtclerk@tncourts.gov" <appellatecourtclerk@tncourts.gov>
Date: 9/30/2020 3:27 PM
Subject: Re petition regarding docket No. ADM2020-01159



Per the NBA's request No. ADM2020-01159 that all Tennessee attorneys be required to take at least two hours of their yearly fifteen (15) hour requirement in continuing education to specifically include "diversity, inclusion, equity, and elimination of bias", I purport a far better use of their time, (and of benefit to the People of Tennessee), would be a requirement that each attorney take that two (2) hour course in the Tennessee Constitution.

Should the powers that be decide on this course of action, the aforementioned qualifiers would be addressed.

As a disproportionate number of attorneys wind up as legislators, I think it would be prudent to have all their continuing education consist of the study of said document (Constitution) with emphasis on Article one (1) Sections one (1) and two (2) and Article eleven (11) Section sixteen (16) where the Power to govern is explained.

Should such action be taken, the learned of jurisprudence could then temper their more base brothers and sisters in service to the People with good instruction.

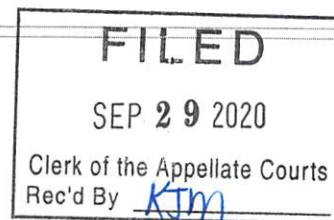
I oppose the mandating of the course matter included in the petition, as it is too narrowly focused and generally inconsiderate of the Rights of all the People of Tennessee.

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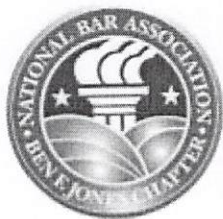
From: Ward Huddleston <ward.huddleston@gmail.com>
To: <appellatecourtclerk@tncourts.gov>
Date: 9/29/2020 1:48 PM
Subject: No. ADM2020-01159



I respectfully opposed the Petition of the Nashville Bar Association and even though I fear retribution in the form of being called a "racist," and otherwise demeaned for my opposition, I submit my reasons. I have been a supporter of Civil Rights legislation and court rulings for more than the 44 years I have been licensed as an attorney in Tennessee. However, I adhere to our legal tradition of requiring proof before a thing is accepted as established fact. The NBA relies upon "systemic racism" as a basis for its position. The anecdotal evidence of police misconduct and apparent criminal behavior in the instances cited by Petitioner has not been adjudicated in a court of law as proof of "systemic racism." I observed the De Jure and De Facto discrimination against minorities that existed during my lifetime. Legislation followed by judicial enforcement addressed that head on with specific detail describing prohibited activity such as racial discrimination in employment, housing and access to public services. I was taught to be "color blind" as was the goal of the Civil Rights Acts and court rulings.

My concern is sloppy thinking confuses insulting or insensitive actions and/or language with unlawful racist activity or behavior. Diversity is a current catch-phrase that seems to be targeted toward an undefined objective or specific goal. My question is, does the Petitioner seek to educate lawyers about the area of law called diversity or is it an attempt at indoctrination to a social movement? As I understand the Tennessee Supreme Court Rules regarding CLE, attendance is mandatory subject to certain exceptions and time frames but may result in loss of license to practice law. This is a heavy weapon for a social movement that has not been codified into law. I have personally observed the fantastic good our system of laws and norms have produced over the last 60 years for everyone especially minorities. "Social Justice" and elimination of "systemic racism" appear to be logically admirable but are too vague and unproven to be a subject matter for CLE. Thank you for allowing me this opportunity to address the petition.

Ward Huddleston Jr
1687 Shelby Oaks Dr Ste 6
Memphis, TN 38134
BPR 004281



National Bar Association
BEN F. JONES CHAPTER
P.O. Box 3493
Memphis, Tennessee, 38173

ADM2020-01159

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SEP 29 2020

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Rec'd By *KJM*

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Amber Floyd
Latrena Ingram
Mozella Ross
LaTanya Walker
Zayid Saleem

September 29, 2020

*Via Electronic Mail Only (Due to COVID-19 and Other USPS
Concerns)*

Chief Justice Bivins
Supreme Court of Tennessee
401 Seventh Avenue North
Nashville, TN 37219
Via Email: justice.jeff.bivins@tncourts.gov

Justice Cornelia Clark
Liaison Justice to Tennessee Commission on Continuing Legal Education
401 Seventh Avenue North
Supreme Court of Tennessee
401 Seventh Avenue North Nashville, TN 37219
Via Email: cclark@tncourts.gov

**Re: Ben F. Jones Chapter of the National Bar Association's Letter of
Support for the Nashville Bar Association's Petition to Modify Rule 21
of the Rules of the Tennessee Supreme Court, Docket No.
ADM2020-01159**

Dear Justices of the Tennessee Supreme Court:

On behalf of the Ben F. Jones Chapter of the National Bar Association, we join the Tennessee Employment Lawyers Association and the Center for Excellence in Decision-Making, among multiple other groups, in strongly supporting the Nashville Bar Association's Petition to Modify Rule 21 of the Tennessee Supreme Court requiring two hours of continuing legal education annually in diversity, inclusion, equity and the elimination of bias.

The Ben F. Jones Chapter of the National Bar Association was officially founded in 1966 to address the unique needs of African-American lawyers and to enhance performance and professionalism at a time when they were systemically excluded by the majority bar. One of the purposes of our Chapter is to proactively and visibly advocate causes that protect and advance the rights and privileges of its members, families and communities. More specifically, we strongly promote diversity within the bar.

Over the last several years, it has become more evident than ever that systemic racism continues to subvert the basic constitutional promises of equal protection by the justice system.

As attorneys, it is our job to denounce racism and acts of racial injustice to

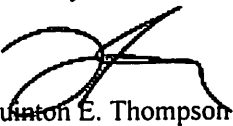
accomplish constructive change in the justice system and the legal profession—but members of the Tennessee bar cannot do that if they cannot recognize it.

The effects of systemic racism have only recently begun to be studied in earnest, but recent findings are instructive. A report¹ released earlier this month by researchers with the Criminal Justice Policy Program at Harvard Law School illuminates how an examination of the disproportionate amount of criminal cases involving African-American and Latino suspects and defendants reveals that institutional racism permeates the Massachusetts criminal justice system. The researchers point to the creation of legislation that results in racially disparate impacts and the fostering of racially disparate treatment by police, prosecutors, and judges as the reasoning behind this disproportionality. Like Massachusetts, the Tennessee criminal justice system experiences similar disproportionalities with regard to African-American suspects and defendants in relation to the African-American population as a whole, and the possibility that systemic racism similarly permeates the criminal justice system—from legislation to policing—in our state deserves the legal community’s attention.

Systemic racism not only affects the legal system, but also impacts every other facet of society. Indeed, yet another report² released this month by researchers with Citigroup found that since 2000 alone, systemic inequities and racism has resulted in the loss of \$16 trillion from the gross domestic product through discrimination in housing, lending, employment, education, and elsewhere. It is overly simplistic to conclude that an entire segment of society is held down due solely to its own shortcomings; instead, outside forces at play should regularly be identified, explored, and discussed to make this imperfect Union more perfect.

It is vital for members of the bar, their families, and communities that we have more lawyers who are competent and willing to advocate for citizens who are supposed to enjoy equal protection under the law. We cannot continue to live in a society in which some are more equal than others. We believe that mandatory training will nurture better understanding within the legal profession of the impact of racism, discrimination, and implicit bias in our legal system and, in doing so, will produce more culturally competent attorneys. In order to steward a system that fosters justice for all we must root out and dismantle systemic racism and other forms of discrimination that deny this basic right. It is the collective opinion of our Board that requiring those charged with upholding and promoting the law to regularly complete training in diversity, inclusion, equity and the elimination of bias is the first and necessary step in doing so.

Sincerely,



Quinton E. Thompson

National Bar Association, Ben F. Jones Chapter
2020 Vice President and President-Elect 2021

¹ Bishop, Elizabeth Tsai, et al. “Racial Disparities in the Massachusetts Criminal System.” *Criminal Justice Policy Program*, Harvard Law School, Sept. 2020, cjpp.law.harvard.edu/assets/Massachusetts-Racial-Disparity-Report-FINAL.pdf.

² Peterson, Dana, et al. “Closing the Racial Inequality Gaps.” *Citi GPS: Global Perspectives and Solutions*, Citigroup, Sept. 2020, ir.citi.com/NvIUklHPilz14Hwd3oxqZBLMn1_XPqo5FrxsZD0x6hhil84ZxaxEuJUWmak51UHvYk75VKeH CMI%3D.

TENNELA
Tennessee Employment Lawyers Association

September 16, 2020

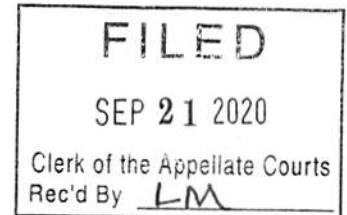
Chief Justice Bivins
Supreme Court of Tennessee
401 Seventh Avenue North
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Via U.S. Mail and Email:
justice.jeff.bivins@tncourts.gov



Justice Cornelia Clark
Liaison Justice to Tennessee Commission
on Continuing Legal Education
401 Seventh Avenue North

Via U.S. Mail and Email:
cclark@tncourts.gov



Supreme Court of Tennessee
401 Seventh Avenue North
Nashville, TN 37219

**Re: Nashville Bar Association's Petition to Modify Rule 21 of the Rules of the
Tennessee Supreme Court, Docket No. ADM2020-01159**

Dear Justices of the Tennessee Supreme Court:

On behalf of the Tennessee Employment Lawyers Association (TENNELA), I submit this letter to strongly support the Nashville Bar Association's August 28, 2020, Petition to Modify Rule 21 of the Tennessee Supreme Court to require two hours of continuing legal education annually in diversity, inclusion, equity and the elimination of bias. It is the collective opinion of our members that such a requirement is long overdue and necessary to ensure that Tennessee attorneys can meet their oath to practice with fairness, integrity, and civility.

TENNELA is an affiliate chapter of the National Employment Lawyers Association (NELA), the largest group of plaintiffs' employment lawyers in the country and the only professional membership organization comprised of lawyers who represent employees in labor, employment, and civil rights disputes. Specifically, TENNELA consists of lawyers dedicated to eradicating employment discrimination in all forms from the workplace.

Over the last several years, a movement has been building that has created a consensus that we as a society and especially as attorneys must forcefully and actively address the

TENNELA

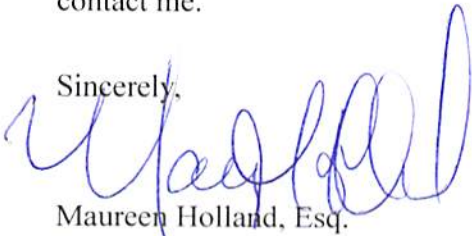
Tennessee Employment Lawyers Association

engrained factors that have allowed systemic racism to undermine the fundamental constitutional promises of equal justice and treatment within our legal system. It is incumbent upon us as attorneys to insist that our profession meets those highest ideals.

Critically, it is not simply the headline-grabbing instances of discrimination and bias that we must address. In fact, implicit biases begin before an attorney-client relationship is even formed. A number of recent studies in California, for example, found that white-sounding names from potential clients received 50% more replies from attorneys than potential clients with black-sounding names. Because of the pervasiveness and depth of bias within our system and within all of us as individuals, we believe that our profession should lead the effort to face and overcome these challenges.

Accordingly, we believe that the Nashville Bar Association's petition to include two hours of diversity, inclusion, equity, and elimination of bias training is a proper and appropriate step toward reaching the goal of eliminating bias in our profession. If TENNELA can provide any other information to assist you in your consideration of this important proposal, please contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Maureen Holland', is written over the word 'Sincerely,'.

Maureen Holland, Esq.
TENNELA President

cc: Jim Hivner, Clerk of Court (jim.hivner@tncourts.gov)

TENNELA

Tennessee Employment Lawyers Association

% Maureen Holland, Esq., TENNELA President

1429 MADISON AVENUE

MEMPHIS, TENNESSEE 38104

MEMPHIS TN 380

18 SEP 2020 PM 3 L



Supreme Court of Tennessee
401 Seventh Avenue North
Nashville, TN 37219



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SEP-15 2020

Clerk of the Appellate Courts
Rec'd By Kim



September 15, 2020

Chief Justice Bivins
Supreme Court of Tennessee
401 Seventh Avenue North
Nashville, TN 37219
Via U.S. Mail and Email: justice.jeff.bivins@tncourts.gov

Justice Cornelia Clark
Liaison Justice to Tennessee Commission
401 Seventh Avenue North
Liaison Justice to the Tennessee Commission on Continuing Legal Education
Supreme Court of Tennessee
401 Seventh Avenue North
Nashville, TN 37219
Via U.S. Mail and Email: cclark@tncourts.gov

**Re: Center for Excellence in Decision-Making's Letter of Support for the Nashville
Bar Association's Petition to Modify Tennessee Supreme Court Rule 21
Docket Number ADM2020-0115**

Justices of the Tennessee Supreme Court:

The Center for Excellence in Decision-Making (CEDM) unequivocally supports the Nashville Bar Associations' (NBA) Petition to modify Tennessee Supreme Court Rule 21 to require, on an annual basis, two hours of continuing legal education on the topics of diversity, inclusion, equity, and the elimination of bias.

The CEDM is a judge-led initiative that began in 2018 in response to a recognized need in Shelby County to address systemic institutional racism and combat detrimental unconscious bias in decisions made by community leaders and stakeholders. The CEDM's Board of Directors includes U.S. Sixth Circuit Court of Appeals Judge Bernice Donald, U.S. District Court Judge

Tommy Parker, Shelby County Circuit Court Judge Gina Higgins, and Shelby County Chancellor JoeDae Jenkins.

Since its inception, the CEDM has provided intensive interactive training and education in the areas of diversity, inclusion, cultural competence, and unconscious bias to judges, attorneys in the district attorney's and U.S. attorney's offices, federal public defenders, and key decision-makers in law firms and corporate legal departments. This training includes workshops facilitated by world-renowned experts in the fields of neuroscience and psychology and authors who have studied and written extensively on implicit bias. The CEDM's initiatives have also included dual credit CLE webinars addressing these topics.

The proposed modification to Rule 21 emulates the CEDM's mission and is a tangible step toward addressing certain obstacles that have plagued the Tennessee justice system for generations. Evidence of these obstacles can be found in a multitude of areas. For instance, in the criminal justice system, the U.S. Justice Department's Civil Rights Division, under the Obama administration, investigated Memphis's juvenile justice system and found that "African-American children [were] treated differently and more harshly" than white children. And, black juveniles arrested in Shelby County were twice as likely as white juveniles to be detained in jail and twice as likely to be recommended for transfer to adult court, where a conviction generally brings harsher punishment. The adult population suffers from similar institutional inequity in the Shelby County criminal justice system. Despite making up 60.2% of Shelby County's population, blacks and Hispanics, on average, make up 86% of the total jail population.

In the civil justice system, evidence of racial inequity can be found in the ethnic composition of large Memphis-based civil law firms. In 2018, only 5.2% of attorneys employed by the 22 largest Memphis law firms identified as minorities, with only 8.9% classified as associates and 4.3% classified as partners. This low percentage must be considered in context; from 2008 through 2020, an average of 21.4% of students enrolled in the University of Memphis law school were minorities, with little attrition from a corollary graduation rate.

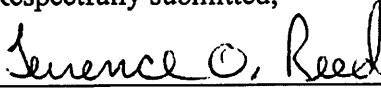
The CEDM strongly suspects that Memphis is a microcosm for many other communities in Tennessee, and we cite these statistics to exemplify the need for increased education and training on diversity, inclusion, equity, and the elimination of bias that perpetuate the above-referenced obstacles. The Tennessee Bar should not ignore the renewed call for social justice sparked by the civil unrest following the repeated high-profile mistreatment of members of our minority communities. On the contrary, the Tennessee Bar should proactively meet this moment with bold action and lead the charge to eradicate inequality and injustice, and a good start would be the proposed modification to Rule 21. Indeed, our beloved profession has a special duty to lead in this initiative since we are guardians of justice, help develop the law, practice within the criminal justice system, and help clients navigate the legal system.

It was encouraging that the Tennessee Supreme Court issued a statement on its commitment to equal justice on June 25, 2020 and set forth a plan to combat racism in our society.

The CEDM respectfully asks that the proposed amendment to Rule 21 be incorporated in that plan. It is time for Tennessee to join the other states, as identified in the NBA's Petition, that require such annual CLE credit.

For the foregoing reasons, and infinite others, the CEDM proudly joins the NBA's Petition to modify Rule 21.

Respectfully submitted,



Terrence O. Reed (TN Bar #20952)

Vice President, CEDM

Managing Director / Employment Litigation

3620 Hacks Cross Road - Bldg. B, 2nd Floor

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/s/ Earle J. Schwarz

Earle J. Schwarz (TN Bar #007192)

President, CEDM

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/s/ Katharine Traylor Schaffzin

Katharine Traylor Schaffzin

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