

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

FILED
APR 15 2019
Clerk of the Appellate Courts
Rec'd By _____

IN RE AMENDMENTS TO THE RULES OF THE TENNESSEE SUPREME COURT

NO. ADM2019-00263

COMMENT OF THE CHATTANOOGA BAR ASSOCIATION
IN RESPONSE TO THE PETITION FOR THE ADOPTION OF AMENDED TENNESSEE
SUPREME COURT RULE 21; NO. ADM2019-00263

The Chattanooga Bar Association ("CBA") has carefully considered the proposed change to Tennessee Supreme Court Rule 21, Rule for Mandatory Continuing Legal Education.

The CBA's Committee of the Judiciary conducted an extensive review of the Court's proposed amendment to Rule 21. The CBA Executive Committee of the Board of Governors supports the Committee's recommendation as outlined below.

Section 4.03(c): The CBA recommends that this section be expanded to provide CLE credit to those who coach or judge high school mock trial competitions as well. In many instances these competitions are as close to a civics class as many high school students will come. While high school competitions may lack some of the intensity of law school mock trial or moot court competitions, they serve a purpose no less valuable.

Sections 5.01(h)(2), 5.01(i), and 10.01(c)(2)(i) all use the words "interactive" or "interactivity" in the context of online, pre-recorded and similar CLE programs. Neither of these terms appear to be defined. The terms could cover a wide-range of activities and perhaps should be defined in some way. One such method is for the program to require the participant to respond to specific prompts at random times

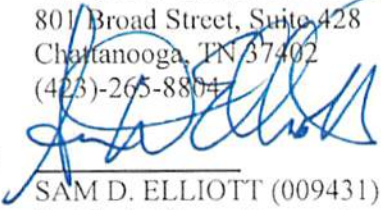
during the program.

Section 8.02: The proposed last sentence of the addition to 8.02(a) states "Attendance submitted more than one year after the date of the completion of the course will not be posted." This punishes the attorney for the provider's lack of performance. While there should be a consequence for a delay of over a year, it should be visited upon the provider rather than the attorney, and an attorney whose attendance was not timely posted should have some avenue of relief.

RESPECTFULLY SUBMITTED,

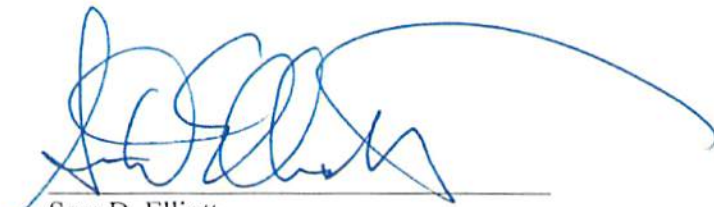
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CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing has been served upon the individuals and organizations identified in Exhibit "B" by regular U.S. Mail, postage prepaid within seven (7) days of filing with the Court and/or email.



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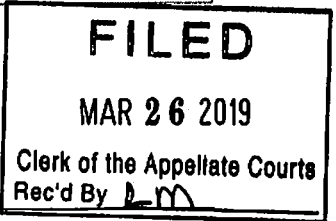
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Docket No. ADM2019-00263

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Mr. Hivner,

Pursuant to the request for comments by the Tennessee Supreme Court, I am writing to object specifically to proposed amendment Rule 21 Section 3.01(c) that increases the live CLE requirement from 5 hours to 7 hours for Tennessee licensed attorneys.

The increase in live CLE hours negatively impacts sole practitioners, small law firm attorneys, attorneys in small cities or rural areas, and attorneys in multidisciplinary quasi-legal industries who often must obtain and maintain other licenses and certifications in addition to their law licenses. As a sole practitioner healthcare compliance legal professional in a city that often does not provide CLE courses in my industry, I am particularly sensitive to this amendment's inevitable time and financial costs on my practice.

As with many attorneys in my generation, I operate as a low cost, high availability office-less/virtual office legal consultant. By taking advantage of today's technology, I can operate my business from any location while providing individualized, on-site services for business clients. In addition to tailoring my time to fit clients' schedules (as opposed to requiring clients to meet me at a static business location), I tailor my expertise to the specific needs of the client including obtaining "gold standard" certifications or licenses expected by their industries or governing authorities. This setup also greatly reduces practice expenses so I may charge reasonable fees for services to small businesses.

Similar to a law license, certifications require a certain number of live and distance learning continuing education (CE) credits. However, their definition of live CE courses includes "streamed" seminars where participants can ask questions of the presenters in real time. Along with

cross-acceptance of other certifications' CE credits, the cost in maintaining certifications is affordable and very manageable. Members do not have to travel distances to fulfill course requirements not frequently available in their locale. Further, members do not need to waste valuable time away from their clients/offices.

The requirement for more live CLE credits is predicated upon the antiquated belief that in classroom education provides the highest, most informational and interactive form of education for legal professionals. Even before obtaining/maintaining my certifications, I knew this belief to be patently wrong. The reality for those of us who primarily must attend and self pay courses to fulfill the CLE requirement is that the only economical and efficient manner to do so is attending whichever course is in our locality despite having no interest whatsoever in the course itself. Otherwise, we must miss hours of work driving to and from the course and spend money on hotels, food, gas, parking, etc... to obtain education in the areas we actually practice within or have a sincere interest in receiving extra knowledge.

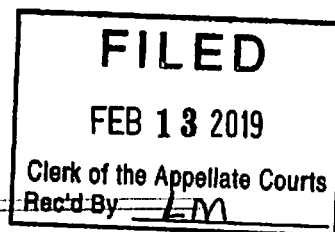
Frankly, I have never derived any appreciable educational benefit from attending live CLE courses just for the sake of fulfilling a requirement. From my observations of other attorneys at these seminars, I doubt their experiences differ as they are frequently reading newspapers or playing on their smart phones/tablets throughout the entire presentations. There is rarely any genuine interaction between the presenter and attendees because everyone - including the presenter - wants to leave as soon as possible. My highest educational experiences have always come from streaming live courses specifically addressing issues in my practice area in a relaxed atmosphere.

If the goal of continuing legal education is to enhance and expand an attorney's working knowledge of the law in their respective fields, Supreme Court Rule 21 should include "real time" and "streaming" seminars in the definition of live CLE. As it now stands, the proposed amendment to Section 3.01(c) only perpetuates the cycle of disinterested, budget minded attorneys mindlessly attending local courses due to the high time and money costs associated with pursuing more meaningful and relevant live education. We attorneys should not be penalized for practicing in fields and industries that fall outside the norm in our communities nor for choosing to live and provide specialized services within those CLE-limited communities. In our increasingly mobile and virtual society, the Supreme Court should be fully embracing superior internet based "real time" CLE courses rather than futilely holding on to traditionalist in-classroom learning environments.

Thank you for your time and attention on this matter.

Yours Very Truly,

Janella L. McCants, Esq.



appellatecourtclerk - Comment on proposed changes to Rule 21

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Subject: Comment on proposed changes to Rule 21
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ADM2019-00263

Dear Clerk:

I strongly encourage the Court to reject the proposed changes to the mandatory LIVE CLE credits set forth in Section 3.01 (a) and Section 4.02 (a) which increases the required in classroom hours from five to seven hours. Accordingly, I request the Court keep the in required classroom hours limited to five hours. As an attorney who is located in South Carolina and licensed with both South Carolina and Tennessee, these changes cause an additional economic burden to my practice. Currently, most in classroom CLE programs offered in Tennessee qualify for four to six CLE hours. The proposed change to Rule 21 will, in essence, require that any attorney located outside of Tennessee make (at least) two trips into Tennessee to complete the in classroom CLE hour requirements. I would argue that the economic burden placed on Tennessee attorneys located outside Tennessee created by the proposed changes to Rule 21 do not meet or exceed the benefit of requiring said attorneys to attend in classroom CLE programs.

Respectfully,

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