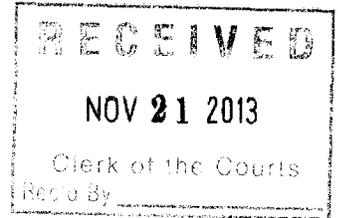


>>> "Harold G. Speer, Jr." <Budspeer@aol.com> 11/21/2013 11:05 AM >>>  
Submitted on Thursday, November 21, 2013 - 11:05am  
Submitted by anonymous user: [74.239.110.100]  
Submitted values are:

Your Name: Harold G. Speer, Jr.  
Your Address: 629 Lynah Ln, Beech Grove, TN 37018  
Your email address: Budspeer@aol.com  
Your Position or Organization: Harold G. Speer, Jr., Attorney-at-Law  
Rule Change: Supreme Court Rule 21  
Docket number: ADM2013-02417  
Your public comments:



Dear Sir or Madam:

I strongly disagree with the recommendation to require five (5) hours of "live" CLE in Tennessee. My review of the ABA.org website shows that 31 states require no live CLE. An additional fourteen (14) states do not require live CLE, but do set some limits on the number of hours that can be satisfied by recorded on-line courses (i.e., Tennessee's current limitation of 8 hrs). Thus, a great majority of the states forty-five (45) do not require any "live" CLE hours. My research on this website shows the following states required annual live hours: CA (4), IN (10), MS (6), PA (12), and TX (3). This website does not show that NJ requires 1/2 of its hours to be live.

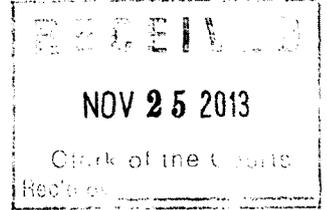
While it may be true that the requirement of live CLE hours "might" help attorneys' interaction and professionalism, there are already rules in place to sanction attorneys who do not interact professionally. Other professions in Tennessee are allowed to satisfy their continuing education requirements without any live hours (i.e., Dentistry) without concern for lack of professionalism. In this day and age of smart phones, video conferencing, webinars, work-from-home jobs, etc., it seems that a requirement for live CLE is a quaint, but unnecessary, desire to return to the "good old days."

Thank-you for considering my comments to the proposed amendment to Rule 21.

Sincerely,

Harold G. Speer, Jr., BPR 013424

IN THE SUPREME COURT OF TENNESSEE  
AT NASHVILLE, TN



IN RE: PETITION TO AMEND  
TENNESSEE SUPREME  
COURT RULE 21

\*  
\*  
\*  
\*  
\*  
\*  
\*

No.: ADM2013-02417

**COMMENT IN SUPPORT OF PETITION BY D. BRUCE SHINE**

Comes D. Bruce Shine, a licensed attorney (BPR No. 000815) in the State of Tennessee since March 31, 1964, joins in support of the Petition to Amend Tennessee Supreme Court Rule 21 governing requirements of continuing legal education as proposed by the Tennessee Commission of Continuing Legal Education and Specialization ("Commission").

The undersigned would state to the Court as follows:

1. I am over the age of 65, having been born on August 11, 1938, and have **NOT** previously requested a waiver of the CLE requirements pursuant to Rule 21, Section 2.04(a), Rules of the Tennessee Supreme Court.
2. For approximately two years, I have had a "draft" Petition to Amend Tennessee Supreme Court Rule 21 Section 2.04(a) seeking removal of the exemption for attorneys over the age of 65 from engaging in annual mandatory continuing legal education but was hesitant to file such a petition.
3. The undersigned would note to the Court the Alternative Dispute Resolution Commission of the Tennessee Supreme Court of which the undersigned has been a member since 1996 and is currently chair, does not and never has

recognized an age exemption for attorneys listed as "Rule 31 Mediators" in terms of their continuing mediation education requirements.

4. The ADRC adopted on April 26, 2004 a requirement pursuant to Tennessee Supreme Court Rule 31, Section 18(a) that all "listed" Rule 31 Mediators have six hours of continuing mediation education every two years. This policy became effective with the renewal process for listed Rule 31 Mediators on January 1, 2005.

5. Some years ago, a Rule 31 Listed Mediator also licensed as an attorney and over the age 65 requested an exemption from the continuing mediation education required by Rule 31, Section 18(a). In moving for such a waiver, the attorney cited Rule 21, Section 2.04(a) of the Supreme Court Rules of Tennessee. The ADR Commission at that time determined Rule 21 applied to licensed attorneys and their "qualifications to practice law" and did not apply to the Alternative Dispute Resolution Commission listing of Rule 31 Mediators. All Rule 31 Listed Mediators in the State of Tennessee since 2005 irrespective of age and whether licensed lawyers or not have been required to take six hours every two years of continuing mediation education cited above.

6. On October 31, 2011, the Commission provided undersigned figures then applicable showing that of the then 17,133 licensed lawyers in Tennessee that those over the age of 75 who had paid their annual license fee and sought an exemption under Rule 21, Section 2.04(a) numbered 949 or .06 percent of the then licensed lawyers in the state. The number of lawyers over the age 75 on October 31, 2011 who had paid their annual license fee and who had **NOT** sought an exemption under Rule 21, Section 2.04(a) numbered 16 or .001 percent of the lawyers then licensed in Tennessee.

7. There is no rational reason nor does an objective academic study exist to support the proposition that attorneys over 65 would not benefit from the continuing legal education requirements inherent in the intent behind the adoption of Rule 21 in 1986.

8. Citizens of the State of Tennessee should be able to rely upon the continued competence of attorneys irrespective of age who hold themselves out to the general public as competent to practice law.

9. While the age of 65 and over exemptions served at one time as a useful means of achieving support among the legal profession for the adoption of Rule 21, the exemption no longer serves the best interest of the citizens of Tennessee as consumers of legal services.

10. Exhibit C to the subject Petition as well as its Exhibit E, amply demonstrate the need and the necessity for the removal of the age 65 exemption as it currently exist under Rule 21, Section 2.04(a) of the Supreme Court Rules of Tennessee.

**WHEREFORE**, the undersigned moves the Court to adopt the Petition to Amend the Tennessee Supreme Court Rule 21.04(a).

By: \_\_\_\_\_



**D. BRUCE SHINE, ESQ.**  
**TN BPF No. 000815**  
**LAW OFFICE OF D. BRUCE SHINE**  
**433 East Center Street, Suite 201**  
**Kingsport, TN 37660-4858**  
**423 246-8433**  
**423 246-7464 (facsimile)**

**NEAL & HARWELL, PLC**

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NASHVILLE, TENNESSEE 37219-2498

JAMES F. NEAL (1929-2010)

AUBREY B. HARWELL, JR.  
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JAMES F. SANDERS  
THOMAS H. DUNDON  
RONALD G. HARRIS  
ALBERT F. MOORE  
PHILIP N. ELBERT  
JAMES G. THOMAS  
WILLIAM T. RAMSEY  
JAMES R. KELLEY  
MARC T. McNAMEE  
GEORGE H. CATE, III  
PHILIP D. IRWIN  
A. SCOTT ROSS  
GERALD D. NEENAN  
AUBREY B. HARWELL, III  
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JOHN E. HAUBENREICH  
BLIND AKRAWI  
CHANELLE A. JOHNSON  
ANDREW A. WARTH

OF COUNSEL  
LARRY W. LINDEEN

November 25, 2013

Mike Catalano, Clerk  
Appellate Court Clerk's Office  
100 Supreme Court Building  
401 7th Avenue North  
Nashville, TN 37219-1407



**Re: Tenn. Sup. Ct. R. 21  
Supreme Court No. ADM2013-02417**

Dear Mr. Catalano:

I was surprised and disappointed to learn that the Commission on Continuing Legal Education and Specialization has petitioned the Supreme Court to remove the CLE credit exemption in Rule 21, §2.04(a), for those of us who are 65 and over. As a confessed member of the affected class, I am opposed to the change in the Rule.

I have been a consistent supporter of continuing legal education for our profession and a supporter and participant in the formal program in our state. As you know, however, it is not a perfect solution to the problem of disparate quality across the bar; and while the goal of continuing legal education is necessary and laudable, (and helps to promote the profession's image among our citizens) it certainly does not insure that practicing lawyers will keep abreast of the changes in the statutory and case law. Given that there are no absolutes here, I respectfully suggest that the proposed change imposes more unnecessary burdens than positive benefits.

The stated justifications for the change are particularly unpersuasive. Merely because economic and demographic changes have resulted in more practicing "veterans of the bar" does not prove a need to remove the age exemption. And the reliance on the increase in the number of complaints lodged against the age group is tenuous at best and unfair at worst. At the very least, one would expect some nexus be drawn between those complaints that are legitimate and whether 15 hours of continuing legal education a year would have conceivably prevented the

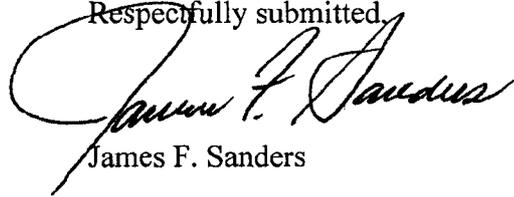
Mr. Mike Catalano  
November 25, 2013  
Page Two

offense(s). In other words, and respectfully, more study and analysis are necessary before the age exemption is removed.

Having talked to a number of "veterans," I hope and expect that you will hear from them, so I shall not belabor the point, nor expand on it; but I would be pleased to discuss the matter further or answer any questions or concerns.

Please register my "vote" as an emphatic, "Don't do it."

Respectfully submitted,

A handwritten signature in black ink, appearing to read "James F. Sanders". The signature is written in a cursive style with a large initial "J".

James F. Sanders

JFS/mlk

# CHAMBLISS

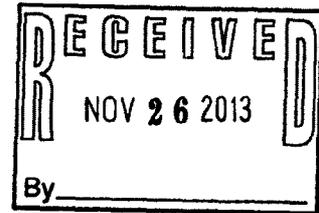
CHAMBLISS, BAHNER & STOPHEL, P.C.

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T. MAXFIELD BAHNER  
DIRECT DIAL (423) 757-0202  
DIRECT FAX (423) 508-1202  
mbahner@chamblisslaw.com  
ALSO LICENSED IN VA AND NY

November 25, 2013

Mr. Michael W. Catalano, Clerk  
Tennessee Supreme Court  
100 Supreme Court Bldg  
401 7<sup>th</sup> Avenue North  
Nashville, TN 37219-1407



Re: Comments on Amendments to Supreme Court Rule 21

Dear Mr. Catalano:

As a Tennessee lawyer now 80 years of age, I strongly support the proposed amendment. For years I have in conversation with lawyers said that I saw no basis for relieving lawyers the requirement of continuing legal education who continue to practice. A part of the joy of practicing law is that we continue to learn and to grow. There is no good reason to excuse lawyers over 65 of the CLE requirement. In fact, I believe that just the opposite is the case, the older we get the more we need to continue learning.

Respectfully,

A handwritten signature in black ink, appearing to read "T. Maxfield Bahner".

T. Maxfield Bahner

TMB/mms

NEAL & HARWELL, PLC

LAW OFFICES

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November 22, 2013

CHANDRA N.T. FLINT  
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JEFF H. GIBSON  
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J. ISAAC SANDERS  
JOHN E. HAUBENREICH  
BLIND AKRAWI  
CHANELLE A. JOHNSON  
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Justice Cornelia A. Clark  
Supreme Court Building, Suite 318  
401 7<sup>th</sup> Avenue North  
Nashville, Tennessee 37219

Justice Janice M. Holder  
50 Peabody Place, Suite 209  
Memphis, Tennessee 38103

Justice William C. Koch  
Supreme Court Building, Suite 321  
401 7<sup>th</sup> Avenue North  
Nashville, Tennessee 37219

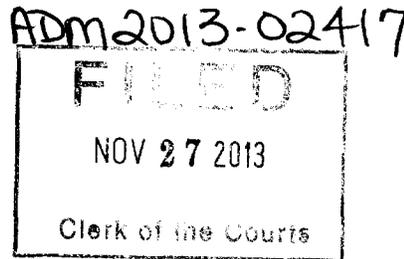
Justice Sharon G. Lee  
505 Main Street, Suite 236  
P.O. Box 444  
Knoxville, Tennessee 37902

Justice Gary R. Wade  
505 Main Street, Suite 200  
P.O. Box 444  
Knoxville, Tennessee 37902

RE: *Petition to Amend Tennessee Supreme Court Rule 21*

Dear Supreme Court Justices:

I have often thought that mandatory CLE in Tennessee is probably on balance good, although I was somewhat skeptical about it initially. It was my view that really good lawyers did not need it because they relied on other resources to keep up with changes in the law. On the other hand, I understood that there were a number of lawyers who would probably benefit from some form of continuing education.



I was also somewhat troubled by the fact that an entire industry has been created by virtue of mandatory CLE, and it is often driven by profit considerations. Some of the programs, very frankly, as I'm sure the Court knows, are not really of any significant benefit to the attendees.

Having said that, the purpose of this letter is to comment on the Commission's proposal to eliminate the exemption for lawyers age 65 and over regarding CLE.

It's my strong view that, although 65 may be an arbitrary age, good lawyers who practice for a number of years simply have gained a tremendous knowledge and understanding of the law and mandatory CLE should not be required for them. I've discussed this with a number of other lawyers who, like me, are still actively practicing and are post-65. None of those to whom I've spoken, think that eliminating the exemption is well-advised.

I respectfully urge you to deny the request, and keep the exemption as it is for lawyers 65 and over.

Sincerely,

A handwritten signature in black ink, appearing to read 'Aubrey B. Harwell, Jr.', with a large loop at the top and a long tail extending downwards.

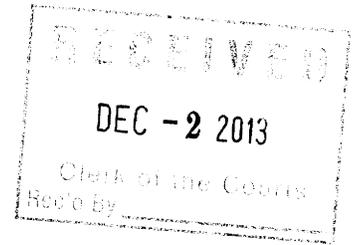
Aubrey B. Harwell, Jr.

ABHJr/lp

c: Tom Greenholtz, Chairperson  
Judy Bond-McKissack, J.D., Executive Director

LAW OFFICES  
BURCH, PORTER & JOHNSON  
A PROFESSIONAL LIMITED LIABILITY COMPANY  
130 NORTH COURT AVENUE  
MEMPHIS, TENNESSEE 38103  
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Allen T. Malone  
901-524-5157  
Email: [amalone@bpjlaw.com](mailto:amalone@bpjlaw.com)



November 26, 2013

ADM2013-02417

Mike Catalano, Clerk  
Tennessee Appellate Courts  
100 Supreme Court Building  
401 7<sup>th</sup> Avenue North  
Nashville, Tennessee 37219-1407

RE: Tennessee Supreme Court Rule 21

Dear Mr. Catalano:

In response to the Supreme Court's request for comments concerning the proposed amendments to Tennessee Supreme Court Rule 21, this is to address that part of the proposed amendments, which would reinstate annual CLE requirements for lawyers who are 65 years old or older.

Several years ago, an organization of senior lawyers known as the "Gray Knights" was formed in Shelby County to support Memphis Area Legal Services ("MALS") with pro bono service for its clients, as well as financial contributions. There are currently sixty-seven lawyers serving as Gray Knights.

The pitch used in recruiting Gray Knights has been that senior lawyers, who are no longer obligated to meet the fifteen hour per year CLE requirement, should commit the fifteen hours to pro bono service for MALS' clients. I believe the pitch has been effective, but of course would be negated by the proposed Rule amendment. It has been my experience that work performed in pro bono service for MALS' clients has been of far more value, in terms of continuing legal education, than attending CLE courses.

Accordingly, what I would propose is that lawyers who (1) are 65 years old or older and (2) have been engaged in the practice of law for not less than 35 years, may satisfy their CLE requirement by performing pro bono services on behalf of clients referred to them by MALS and similar organizations throughout the state totaling at least fifteen hours each year.

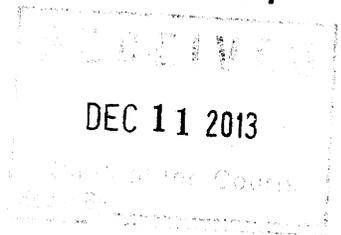
Sincerely,

Allen T. Malone

cc: Linda Warren Seely  
Memphis Area Legal Services

LEW CONNER  
2021 RICHARD JONES ROAD, SUITE 340  
P.O. BOX 150039  
NASHVILLE, TENNESSEE 37215-0039  
TELEPHONE: (615) 850-8495  
FAX: (615) 850-8650

ADM 2013-2417



December 9, 2013

Chief Justice Gary R. Wade  
Tennessee Supreme Court  
505 Main Street, Suite 200  
P.O. Box 444  
Knoxville, TN 37902-0444

Justice William C. Koch, Jr.  
Supreme Court Building, Suite 318  
401 7<sup>th</sup> Ave. N.  
Nashville, TN 37219-1407

Justice Cornelia A. (Connie) Clark  
Supreme Court Building, Suite 318  
401 7<sup>th</sup> Ave. N.  
Nashville, TN 37219-1407

Justice Sharon Gail Lee  
505 Main Street, Suite 200  
P.O. Box 444  
Knoxville, TN 37902-0444

Justice Janice M. Holder  
50 Peabody Pl., Suite 209  
Memphis, TN 38103-3665

Re: Rule 21

Dear Chief Justice Wade and Members of the Court:

I write in opposition to a change in Rule 21 requiring attorneys over the age of 65 to continue obtaining CLE credits to retain their law licenses. The proposed change will not materially affect me because I am a Rule 31 mediator. As such I will continue with the CLE requirements of that rule. Nevertheless, I oppose the change in the rule because for those of us who have retained a law license to age 65 it is extremely unlikely that CLE will make a significant difference in our competence. Having been involved with CLE from the beginning, I have noticed on many occasions a lack of attention paid to the subject matter of a given course irrespective of age. Moreover, there has been an explosion of a cottage industry in "CLE" and no doubt considerable lobbying of the Commission by that industry to broaden the base to the fullest extent.

No doubt there are those of us, 65 and older, who should not continue to practice law by reason of physical or mental infirmities associated with that age, perhaps including this writer; however, in all likelihood, adding CLE requirements will not in any way identify or cure that issue.

Thanks for considering my thoughts.

Very truly yours,

Lew Conner

LC: mh  
cc: Tom Greenholtz  
Judy Bond-McKissack

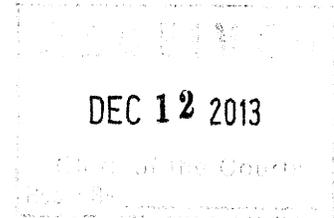
LAW OFFICES  
**HULL, RAY, RIEDER, EWELL, LANE & LYNCH, P.C.**  
(A PROFESSIONAL ASSOCIATION)

THOMAS M. HULL (1930-2010)  
DONALD J. RAY  
WILLIAM C. RIEDER  
GERALD L. EWELL, JR.  
JAMES D. LANE, II  
STACY L. LYNCH

214 N. ATLANTIC STREET  
P. O. BOX 878  
TULLAHOVA, TN 37388  
TEL (931) 455-5478  
FAX (931) 455-6148  
Email: billrieder@lighttube.net

December 10, 2013

Mr. Mike Catalano, Clerk  
Tenn. Sup. Ct. R. 21  
Appellate Court Clerk's Office  
100 Supreme Court Building  
401 7<sup>th</sup> Avenue North  
Nashville, TN 37219-1407



**RE: Amended Rule 21, No. ADM 2013-02417**

Dear Sir:

I am writing to comment on the proposed changes to Supreme Court Rule 21, and in particular the exemptions under Section 2. Certainly one cannot argue that the number of attorneys who are still practicing law (at least to some extent) past 65 years of age is increasing. First, there are varying reasons why attorneys continue to maintain a law license past age 65. These reasons could range from many years of well deserved pride and honor that comes from holding a law license. Secondly, there is a huge difference between practicing law and holding a law license. Obviously holding a law license does not mean that individual is necessarily practicing law. To change the rules in the later stage of a long licensed attorney creates an environment that such attorneys are not welcome to the brotherhood.

I would make some alternative recommendations for consideration.

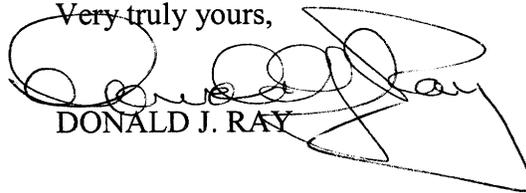
1. Perform some research on incremental license similar to the process young people go through to get a driver's license. For example, a limited license could be issued for an attorney who does not want any privileges of representing any client in Court. Although it's apparently not been studied, there is a likelihood that the research would show this would curtail disciplinary complaints if there is not Court advocacy involved.

2. The research cited in the Petition to Amend ceases its consideration once the attorney passes age 65. Could the same conclusions be made for attorneys who are 70 or older? 75? It seems massively over broad that this rule change provides a life sentence for a lawyer who has earned and wants to maintain the Honorable license perhaps until death. The Honorable Commission has made some valid points, but did not look far enough at alternatives to avoid this

life sentence. Again, would those points be valid for lawyers over 70? 75? If this wasn't studied, then we don't know if there is an alternative that might work.

Like all age groups, there are a few who can contaminate the entire group. In no age group do we "shoot" the rest of the group because of the sins of a few. I just don't think this rule change has been thoroughly researched to find suitable alternatives. Many thanks to the members of the Commission for their service.

Very truly yours,

A handwritten signature in black ink, appearing to read "Donald J. Ray", written over a printed name. The signature is highly stylized and somewhat illegible due to overlapping loops and flourishes.

DONALD J. RAY

DJR/jt

# JOHN BUMPUS

ATTORNEY AT LAW\*

POST OFFICE BOX 1987

SHELBYVILLE, TENNESSEE 37162-1987

TELEPHONE

931-680-9510

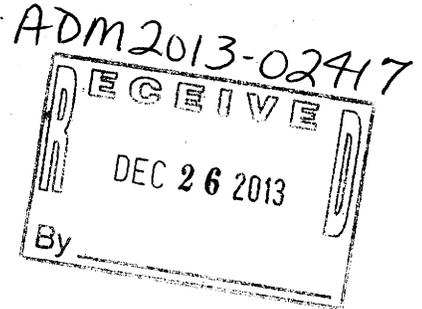
TELEFACSIMILE

931-680-9515

OFFICE ADDRESS:

207 NORTH SPRING STREET  
SHELBYVILLE, TENNESSEE

\*ALSO LICENSED BY  
DISTRICT OF COLUMBIA



December 24, 2013

Mr. Mike Catalano, Clerk  
*Re: Tennessee Supreme Court Rule 21*  
Appellate Court Clerk's Office  
100 Supreme Court Building  
401 7<sup>th</sup> Avenue North  
Nashville, Tennessee 37219-1407

Dear Mr. Catalano and Ladies and Gentlemen of the Supreme Court:

This letter is to briefly comment on the proposed revision of existing Supreme Court Rule 21 *re* removing the age 65 limitation for mandatory CLE. I oppose this TCCLE revision proposal.

I seriously doubt that very few lawyers practice law full-time after age 65. And the extent to which any of these lawyers may continue to practice law after arriving at this milestone will decrease for each one with every succeeding year. Yet TCCLE's proposal would have these senior, increasingly part-time, lawyers treated the same as though they were 35 instead of 65+.

I suspect that many senior attorneys in Tennessee reside and practice in small communities, not in prosperous city law firm practices, and what law they do practice is a limited practice (e.g., probate, deed preparation, and the like) for which the requirements, and the expense therefor, of full-scale mandatory CLE would increasingly be both unequally burdensome and unnecessary for them. All that these lawyers likely want to do is to perform such minor legal tasks as will enable them to supplement such other retirement income as they have.

TCCLE's formal proposal in its Exhibit E cites the percentage of attorneys age 65 and older as of 8-22-2013—13.37%. But TCCLE's proposal document does not indicate what the percentage of attorneys age 65 and older has been each year throughout the history of mandatory CLE in Tennessee since its beginning in 1987. I suspect that the percentage in 2013 does not differ much, if at all, from what the percentage of attorneys age 65 and older has been throughout the history of mandatory CLE in Tennessee. And if this is true, then why change now?

And likewise, concerning the cited percentage of filed complaints in 2013 for attorneys age 65 and older, I suspect that the same reasoning, and similar percentages, also apply.

Certainly the Supreme Court should know the foregoing additional information before it would vote to revise its existing Rule 21, and should require such information beforehand from TCCLE.

Thank you for your consideration of my concern.

Sincerely,

John Bumpus  
Tennessee BPR no. 002797



## ROBERTSON COUNTY GENERAL SESSIONS COURT

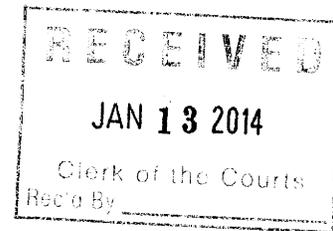
531 SOUTH BROWN STREET, SPRINGFIELD, TENNESSEE 37172

PHONE: (615)384-4684 FAX: (615)382-3125

**BURTON D. GLOVER, JUDGE**

January 9, 2014

Mr. Mike Catalano, Clerk  
Re: Tenn. Sup. Ct. R. 21  
Appellate Court Clerk's Office  
100 Supreme Court Building  
401 7<sup>th</sup> Avenue North  
Nashville, Tennessee 37219-1407



Re: Docket Number ADM2013-02417

Dear Mr. Catalano:

I was elected Robertson County General Sessions Judge in 2006. My date of birth is January 3, 1939. Because of my age I have not been required to submit proof of CLE when attending the fall and winter General Sessions Judges Conferences. During each session there are at least 12 hours of CLE offered. If I had been reporting CLE, at this time I would have had in excess of 24 hours to carry forward to 2014. I would respectfully request this be considered during the course of revising Supreme Court Rule 21 eliminating the exemption for lawyers age 65 and over.

Sincerely,

Burton D. Glover, Judge  
BDG/ad

LAW OFFICE

HAL HARDIN

ADM2013-02417

211 UNION STREET, SUITE 200  
NASHVILLE, TENNESSEE 37201

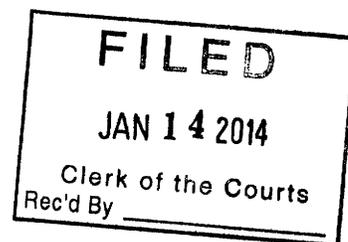
(615) 369-3377  
FAX: (615) 369-3344

January 10, 2014

Justice Janice M. Holder  
50 Peabody Place, Suite 209  
Memphis, TN 38103

Justice Cornelia A. Clark, Suite 318  
Justice William C. Koch, Suite 321  
Supreme Court Building  
401 7<sup>th</sup> Avenue North  
Nashville, TN 37219

Justice Sharon G. Lee, Suite 236  
Justice Gary R. Wade, Suite 200  
505 Main Street  
P.O. Box 444  
Knoxville, TN 37902



**RE: Petition to Amend Tennessee Supreme Court Rule 21**

Dear Supreme Court Justices:

When CLE became mandatory, many of us welcomed it but also viewed it with some skepticism. I felt that the good lawyers probably did not need it. Good lawyers always devoted the time and resources to keep current on legal matters. I felt those lawyers who truly needed CLE would pay their fees and doze through the classes (or now stay on their lap tops). I also was concerned about the emergence of another powerful, cottage industry in the legal business. Even though some CLE has been most fulfilling, I still have some of those original concerns. In my humble opinion, it is not the one fix all that its most ardent supporters claim.

I oppose the commissions proposal to eliminate the age 65 CLE credit exemption currently set forth in Rule 21, Section 2.04(A). Most lawyers who have reached this age should have enough knowledge and understanding of the law that mandatory, expensive CLE is no longer necessary. Lawyers, because of the internet and growing number of legal societies, etc., probably read more law now than ever before.

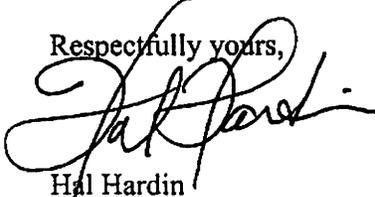
ALSO LICENSED IN: TEXAS, KENTUCKY AND WASHINGTON, D.C.

January 10, 2014

Page 2

I know several lawyers that have elected to retire from the active practice of law but continue doing pro bono work. Some...most I fear, will quit if they have to pay for CLE. These lawyers should not be required to support this expanding cottage industry of CLE. Finally, I was disappointed in the commissions' arguments in support of the rule change. The BPR statistical proof used by the commission falls short of supporting the stated position. I urge the Court to deny the request.

Respectfully yours,



Hal Hardin

HH/ts

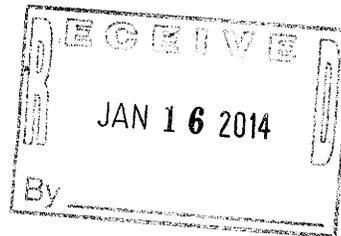
**CARRIER AND HICKIE**  
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**JACK R. CARRIER**  
**MICHAEL J. HICKIE**

TELEPHONE (423) 282-1881  
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January 14, 2014

Mike Catalano, Clerk  
Appellate Court Clerk's Office  
100 Supreme Court Building  
401 7<sup>th</sup> Avenue North  
Nashville, Tennessee 37219-1407



Re: Tennessee Supreme Court R.21  
Docket #ADM2013-02417

Dear Mr. Catalano:

The November 25, 2013 edition of the Tennessee Attorneys Memo reports that the Tennessee Commission on Continuing Legal Education and Specialization has proposed, among other things, the elimination of the age 65 and over CLE credit exemption.

If that proposal is adopted, I think it should only be applicable to lawyers who reach the age of 65 years after the date the proposal is adopted. I do not think lawyers who are already age 65 and older should now be told that they again have to start meeting the CLE requirements. Another thought is maybe the age exemption should be raised to age 70 and over. Senior lawyers certainly deserve an age exemption. Most seniors attend CLE courses anyway, but it should not be required.

The Commission gave some statistics about the number of attorneys over age 65 and those between the ages of 25 and 34 and the number of complaints filed in each age bracket. Where are the statistics for the attorneys between ages 34 and 65? Just because a complaint is filed does not mean the attorney has violated any rule of ethics or done anything improper. There are many explanations why complaints are filed. It is misleading to imply lawyers over 65 years old have an inordinate amount of complaints because they don't have to attend CLE courses. I think these statistics are hand-picked to justify eliminating the age exemption so as to generate more revenue.

I would appreciate your passing on these comments to the commission or any other interested party.

Yours truly,

CARRIER & HICKIE, Attorneys at Law

By: Jack R. Carrier  
JACK R. CARRIER, Attorney

JRC/bb

**Peter K. Shea**

5007 Flint Hill Drive Knoxville, TN 37921 / Tel: 865-584-5023 / E-mail: Sheapt@aol.com

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January 16, 2014

Mike Catalano, Clerk  
Re: Tenn. Sup. Ct. R. 21  
Appellate Court Clerk's Office  
100 Supreme Court Building  
401 7th Avenue North  
Nashville, TN 37219-1407

JAN 21 2014

Docket: No. ADM2013-02417

Dear Mr. Catalano:

I recently read in the *Tennessee Attorneys Memo* of a proposal to reinstitute mandatory CLE requirements for attorneys over 65, based in part on the number of complaints received regarding persons in that age group. Without further information about those complaints, however, it simply is not possible to provide informed comments about this change to CLE requirements.

For example, it would be very helpful to know what categories the complaints fall under. If a great many complaints have to do with inadequate representation based on a lack of substantive knowledge, there may be a case for additional education in some instances, (preferably, from my point of view, only for those who show such a need). Conversely, if the gist of the complaints is a failure to respond to telephone calls, failure to notify clients of case developments, theft, or deception of some sort, no amount of additional education is going to reform an attorney with many years of experience. Also, how many of the complaints were deemed worthy of further investigation; and, of those investigated, how many complaints merited some form of sanction?

I would appreciate it if you could direct me to a source that contains the information noted above so that I may provide specific comments regarding the proposal.

Sincerely,



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January 17, 2014

ADM2013-02417

Mike Catalano, Clerk  
Appellate Court Clerk's Office  
100 Supreme Court Building  
401 7<sup>th</sup> Avenue North  
Nashville, TN 37219-1407

JAN 21 2014

Re: *Tennessee Supreme Court, Ruling 21*

Dear Mike:

I am sending this letter to you consistent with the Order of the Court of November 18, 2013 concerning the petition of the Tennessee Commission on Continuing Legal Education and Specialization to amend Rule 21.

I totally and completely oppose eliminating the age 65 and over CLE credit exemption.

I have read the proposed revisions and I understand the number of attorneys who turn 65 every year is increasing. I also understand that the practice of law is an ever-evolving profession.

Nonetheless, while I appreciate the comments by the Commission that lawyers 65 and older are among the best and the brightest, I respectfully suggest they are also lawyers who are highly experienced, who recognize their abilities, and who simply do not need required CLE.

Continuing legal education is a cottage industry and while there are benefits in requiring some CLE, to dictate that seasoned lawyers take CLE is, in my opinion, not necessary nor is it appropriate.

Mike Catalano, Clerk  
January 16, 2014  
Page 2

It's been five years since I was exempted from CLE and in my view, it has enabled me to handle client matters, serve on non-profit boards, and do pro bono work in lieu of attending CLE.

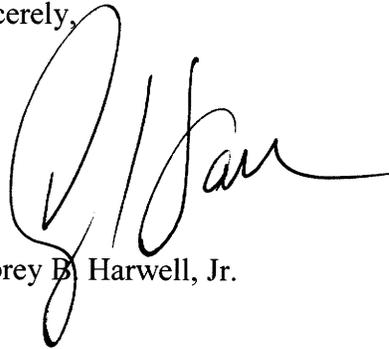
Simply put, if there are lawyers who have practiced 30+ years and need CLE, I assume they will take whatever courses they believe appropriate. On the other hand, if they practice in a given area where CLE would be of no benefit, to mandate that they take CLE is simply not well advised in my opinion.

I appreciate the members of the Commission spending their time and energy looking at this issue. I say, however, that I completely and totally disagree with their conclusion and respectfully submit, the Court should not accept this proposed amendment.

I would be grateful if you would share this with members of the Court, some of whom I've already written about this matter.

Thank you, sir.

Sincerely,

A handwritten signature in black ink, appearing to read "A. Harwell, Jr.", written in a cursive style.

Aubrey B. Harwell, Jr.

ABHJr/lp

JAN 21 2014

LAW OFFICE

**SPEER AND SPEER**

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GRACE E. SPEER\*

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Fax (877) 726-1160

\*Admitted: Tennessee Western  
District U.S. Federal Court  
\*Admitted: U.S. Supreme Court  
\*Admitted: District of Columbia  
Court of Appeals

January 16, 2014

Mike Catalano, Clerk  
Re: Tenn. Sup. Ct. R. 21  
Appellate Court Clerk's Office  
100 Supreme Court Building  
401 7<sup>th</sup> Avenue North  
Nashville, TN 37219-1407

Re: **IN THE SUPREME COURT OF TENNESSEE AT NASHVILLE**  
**IN RE: PETITION FOR ADOPTION OF AMENDED**  
**TENNESSEE SUPREME COURT RULE 21**  
**No. ADM2013-02417**

Dear Mr. Catalano:

I strongly disagree with the recommendation to require five hours in a classroom setting or in other types of live, in-person CLE activity in Tennessee. My review of the Americanbar.org website shows that only six states require live, in-person annual CLE hours: DE (14), KS (14), MS (7), NJ (7), OH (13.25), and PA (12). [See, attached table]. Thus, a great majority of the states (44) do not require any live, in-person CLE hours. Indeed, the trend seems to be going the other way and allowing webinars/teleconferences (see pending accreditation in Delaware). Eighteen states set some limits to the number of hours that can be satisfied by recorded on-line courses (i.e., Tennessee's current limitation of 8 hrs), however, these hours can be satisfied by other formats, such as, ABA approved CD's, CD-ROM's, DVD's, webinars, or teleconferences.

It may be true that the requirement of live, in-person CLE hours "might" help attorneys' interaction and professionalism. However, other opportunities for interaction are provided by various attorney associations. In addition, a requirement for live, in-person CLE to enhance professionalism seems superfluous in light of the guidance provided in the Disciplinary Rules and Ethical Opinions applicable to all Tennessee attorneys. Other professions in Tennessee are allowed to satisfy their continuing education requirements without any live, in-person hours (i.e., Dentistry) and without concern for lack of professionalism. In this day and age of smart phones, video conferencing, webinars, work-from-home jobs, etc., it seems that a requirement for live, in-person CLE is a quaint, but unnecessary, desire to return to the "good old days." The added time and costs of live, in-person CLE, especially for attorneys practicing in rural areas, must be weighed against any purported gain in professionalism.

Speer Public Comments to  
Proposed Amendments to Rule 21  
January 16, 2014  
Page 2

Regardless of how many interactive opportunities are provided, Attorneys must be ethical or professional in their own right. As Saint Augustine of Hippo stated: "Right is right even if no one is doing it; wrong is wrong even if everyone is doing it."

Thank-you for consideration of my comments.

Very truly yours,

A handwritten signature in cursive script that reads "Harold G. Speer, Jr." The signature is written in dark ink and is positioned above the typed name.

Harold G. Speer, Jr., Esq.

Attachment: State CLE Requirements

**State CLE Requirements per Americanbar.org website**

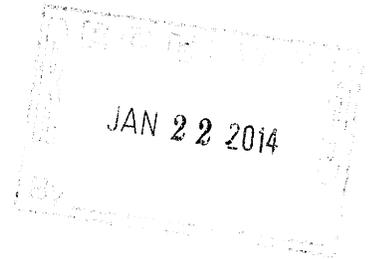
State	CLE/yr	In-Person	Limit Recorded	Formats accepted
AL	12 + 2 ethics	0	0	Live, in-person or Webinars/Teleconferences
AK	9 + 3 ethics	0	0	Live, Web/Teleconf, CDs, CD-ROMs, DVDs, etc.
AZ	15 + 3 ethics	0	0	Live, Web/Teleconf, CDs, CD-ROMs, DVDs, etc.
AR	12 + 1 ethics	0	0	Live, in-person or Webinars/Teleconferences
CA	8.3 + 2 other	0	4.5 participatory	Live, in-person or Webinars/Teleconferences
CO	15 + 2.3 ethics	0	0	Live, Web/Teleconf, CDs, CD-ROMs, DVDs, etc.
CT	0	0	0	N/A
DE	12 + 2 ethics	14	N/A	Live, in-person , but pending webinars/teleconf
DC	0	0	0	N/A
FL	10 + 1.6 ethics	0	0	Live, Web/Teleconf, CDs, CD-ROMs, DVDs, etc.
GA	12 + 2 + 3 (trial)	0	0	Live, Web/Teleconf, CDs, CD-ROMs, DVDs, etc.
HI	3	0	0	Live, Web/Teleconf, CDs, CD-ROMs, DVDs, etc.
ID	10 + .6 ethics	0	0	Live, Web/Teleconf, CDs, CD-ROMs, DVDs, etc.
IL	15 + 3 other	0	0	Live, Web/Teleconf, CDs, CD-ROMs, DVDs, etc.
IN	12 + 1 ethics	0	0	Live, in-person or Webinars/Teleconferences
IO	15 + 1.5 ethic	0	0	Live, in-person or Webinars/Teleconferences
KS	12 + 2 ethics	14	N/A	Live, in-person
KY	12.5 + 2 ethics	0	0	Live, in-person or Webinars/Teleconferences
LA	12.5 + 2 other	0	0	Live, in-person or Webinars/Teleconferences
ME	11 + 1 ethics	0	5.5	Live, Web/Teleconf, CDs, CD-ROMs, DVDs, etc.
MD	0	0	0	N/A
MA	0	0	0	N/A
MI	0	0	0	N/A
MN	15 + 1.6 other	0	0	Live, in-person or Webinars/Teleconferences
MS	12 + 1 other	7	6	Live, in-person or Webinars/Teleconferences
MO	15 + 2 other	0	6	Live, Web/Teleconf, CDs, CD-ROMs, DVDs, etc.
MT	15 + 5 other	0	5	Live, Web/Teleconf, CDs, CD-ROMs, DVDs, etc.
NE	10 + 2 other	?	?	Attys must submit for approval
NV	12 + 4 other	0	0	Live, Web/Teleconf, CDs, CD-ROMs, DVDs, etc.
NH	12 + 2 other	0	6	Live, Web/Teleconf, CDs, CD-ROMs, DVDs, etc.
NJ	12 + 2 other	7	N/A	Can get only 1/2 req'd hrs by non-live
NM	12 + 2 other	0	4	Live, Web/Teleconf, CDs, CD-ROMs, DVDs, etc.
NY	12 + 2	0	0	New attys must get live or interactive videoconf
NC	12 + 2.3 other	0	4	Live, in-person or Webinars/Teleconferences
ND	15 + 1 ethics	0	15	Live, in-person or Webinars/Teleconferences
OH	12 + 1.25 other	13.5	N/A	Live, in person
OK	12 + 1 ethics	0	6	Live, in-person or Webinars/Teleconferences
OR	15 + 2.5 other	0	0	Live, Web/Teleconf, CDs, CD-ROMs, DVDs, etc.
PA	12 + 1 ethics	12	N/A	Live, in person
RI	10 + 2 ethics	0	0	Live, in-person or Webinars/Teleconferences
SC	14 + 2.3 other	0	0	Live, in-person or Webinars/Teleconferences
SD	0	0	0	N/A
TN	15 + 3 ethics	0	8	Live, in-person or Webinars/Teleconferences
TX	15 + 3 ethics	0	3 self study	Live, Web/Teleconf, CDs, CD-ROMs, DVDs, etc.
UT	12 + 1.5 other	0	12	Live, Web/Teleconf, CDs, CD-ROMs, DVDs, etc.
VA	12 + 2 other	0	8 ?	Live, in-person or Webinars/Teleconferences

**State CLE Requirements per Americanbar.org website**

VT	10 + 2 other	0	10	Live, Web/Teleconf, CDs, CD-ROMs, DVDs, etc.
WA	15 + 2 ethics	0	7.5	Live, Web/Teleconf, CDs, CD-ROMs, DVDs, etc.
WV	12 + 1.5 ethics	0	12	Live, Web/Teleconf, CDs, CD-ROMs, DVDs, etc.
WI	15 + 1.5 ethics	0	10	Live, in-person or Webinars/Teleconferences
WY	15 + 1 ethics	0	0	Live, in-person or Webinars/Teleconferences

**STEPHEN J. COX,  
ATTORNEY-AT-LAW**

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**January 21, 2014**

**Mike Catalano, Clerk  
Re: Tenn. Sup. Ct. R. 21  
Appellate Court Clerk's Office  
100 Supreme Court Building  
401 7<sup>th</sup> Avenue North  
Nashville, Tennessee 37219-1407**

**Dear Mr. Catalano:**

**Thank your for accepting commentary on the proposed changes to Rule 21.  
Reference is made to: No. ADM2013-02417.**

**As a now 65 year-old attorney, as of late 2013, I admit that I had looked forward, for the first time, to saving on the time and expense required to obtain 15 hours of CLE for this calendar year (I turn 66 on August 28<sup>th</sup>). I do, however, understand the Commission's thoughts on this issue, and appreciate that many senior attorneys, myself now included, are continuing to practice their profession beyond the typical, for the "old days," semi-mandatory retirement age of 65.**

**Might I ask that the Commission consider the following for us oldsters:**

**That mandatory CLE continue at the rate of eight (8) hours general CLE credit each calendar year for those age 66 and older, with a maximum of three [or four, in the Commission's discretion] hours being "distance" learning, the remainder to be "live" or "on-site."**

**Mike Catalano, Clerk  
January 21, 2014  
Page Two**

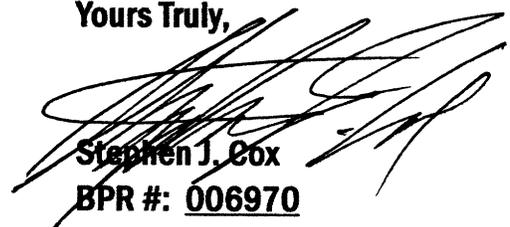
**Further, that the three (3) hours of Ethics & Professionalism CLE requirement be dropped for senior attorneys (I feel that if you're not ethical and professional by age 66, you're never going to be so, and a few hours of training on E&P will neither maintain your ethical behavior, nor change anything in your make-up, at this late date!).**

**I believe that the 8-hour general CLE requirement would better meet the needs of the senior attorney, as it would allow him or her to take a course updating him or her in one or two areas in which that attorney now "specializes," even if not a certified Specialist through TCCLES. For instance, I have been more involved than ever the last few years with Trusts and Estates, and appreciate CLE courses in those areas, but I still represent clients in personal injury matters and other related fields, as well.**

**If the senior attorney wishes to take the 12- or 15-hour block CLE courses offered each year by the late Don Paine's group (TLI), among others, giving a broad overview of changes in the law, new case law, etc., and carry over for the next year the hours beyond the eight (8) required for senior lawyers, that would be fine; any "E&P" or "Dual" hours taken as part of this or any other course could be considered "general" CLE hours for this purpose, and count toward next year's 8-hour total requirement for us old guys.**

**Thank you very much, and with best regards, I remain**

**Yours Truly,**



**Stephen J. Cox  
BPR #: 006970**

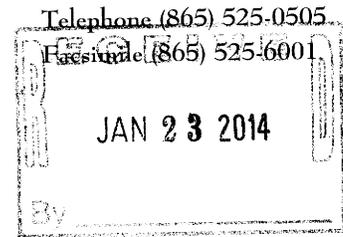
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Arnold G. Cohen

E-Mail  
agc@dmrpclaw.com

January 21, 2014



ADM2013-02417

Mr. Michael W. Catalano  
Clerk of Appellate Courts  
Tennessee Supreme Court  
100 Supreme Court Building  
401 Seventh Avenue, North  
Nashville, TN 37219-1407

RE: Proposed Amendments to Supreme Court Rule 21

Dear Mr. Catalano:

I am a practicing lawyer aged 72. The proposed Rule seems to work an inequity with respect to lawyers over the age of 65 who are practicing and who have taken advantage of the exemption heretofore afforded. For that reason some transitional relief should be granted in the event the proposed change is adopted to require attorneys over the age of 65 who are practicing to be covered by Rule 21.

For myself I typically have had substantial carry over credits from year to year sometimes to the extent that I need very few if any additional credits for the next reporting year. That has not prevented me from attending seminars alive and online regardless of the need for credits. However, I have been very casual in asking for credit for many of those seminars because, being exempt, I did not want to impose any greater financial burden on the seminar provider than was necessary. Even then some providers have filed with the CLE for my attendances.

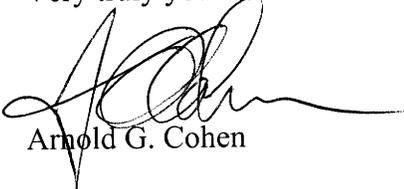
The transitional relief should excuse lawyers from all or a substantial portion of the required credits for the first year after which the proposed change becomes effective or give lawyers the option of being excused. An alternative would be to immediately give written notice to each and every lawyer in the over age 65 category that this Rule may become effective in the near future and that each lawyer should be diligent in causing their 2014 seminar credits to be reported. Even with written notice mailed to each such lawyer, it is likely that such notices would not be received for some time later this year. If so, then each lawyer could be excused *pro rata* from the full year's requirements.

For lawyers who have caused their CLE credits to be reported during 2013, carry over credit should be granted. If so, then additional credits earned during 2014 should, to the extent the combination of 2013 and 2014 credits exceed the amount of credits otherwise required for 2014, be eligible for carry

over to 2015. Further, I am not aware that either the BPR or CLE have a program to identify those of us aging lawyers whose cognitive facilities become impaired due to aging. If such a program does not already exist, one should be instituted. There should be some appropriate means of preventing such lawyers from committing harm inadvertently.

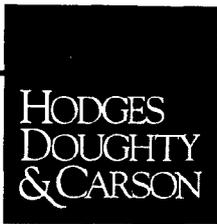
Thank you for considering my comments.

Very truly yours,

A handwritten signature in black ink, appearing to read 'A. Cohen', written over the typed name 'Arnold G. Cohen'.

Arnold G. Cohen

AGC/cms



ATTORNEYS

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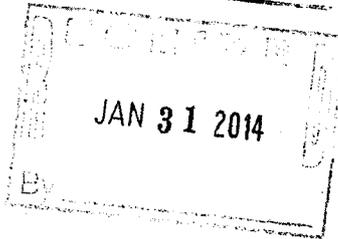
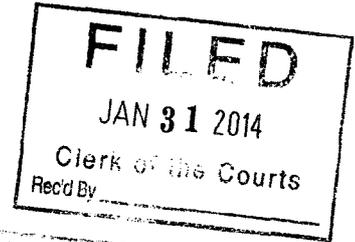
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HIRAM G. TIPTON

RETIRED  
JONATHAN H. BURNETT  
DAVID E. SMITH  
DOUGLAS L. DUTTON  
WILLIAM F. ALLEY, JR.

J.H. HODGES (1896-1983)  
J.H. DOUGHTY (1903-1987)  
RICHARD L. CARSON (1912-1980)  
JOHN P. DAVIS, JR. (1923-1977)

January 28, 2014



Mr. Mike Catalano, Clerk  
Re: Tenn. Sup. Ct. R. 21  
Appellate Court Clerk's Office  
100 Supreme Court Building  
401 7<sup>th</sup> Avenue North  
Nashville, Tennessee 37219-1407

Re: No. ADM2013-02417  
Tennessee Supreme Court Rule 21

Dear Mr. Catalano:

I have reviewed the Petition to Amend Tennessee Supreme Court Rule 21 Governing the Requirements of Continuing Legal Education. I take issue with the proposed revisions to Tennessee Supreme Court Rule 21, § 2. The Rule proposed would eliminate the age 65 and over CLE credit exemption currently set forth in Rule 21, § 2.04(a). The sweeping reversal of the court's rule, which previously existed, is not warranted given the facts. The use of statistics to suggest that the current 2,827 lawyers over the age of 65 have 1,139 complaints compared to the 3,684 attorneys between the ages of 25 and 34 who have 1,268 complaints is not persuasive. First, on its face, the requirement of continuing legal education is not diminishing the complaints between the ages of 25 through 34. Thus, there does not seem to be a relationship between taking CLE and the filing of complaints. The fact that there are 2,827 lawyers who have 1,139 complaints during the same time period does not suggest that the addition of CLE will increase or reduce the number of complaints, as evidenced by the complaints filed against those ages 25 to 34.

I would suggest that the complaints filed on the age bracket of 25 to 34 are more serious than those in the elderly age bracket. Although I have not done an analysis of the complaints to make such a determination (and apparently neither has the Commission), my experience suggests, in reading the disciplinary notices, that to be true.

I would strongly urge the Commission to reverse its position or, alternatively, reduce the amount of CLE suggested for the age 65 and over bracket.

Cordially yours,

Hodges, Doughty & Carson, PLLC

Albert J. Harb

AJH/tjm

Q:\Tammy\Albert\Personal\CatalanoMike1-28-2014.doc

**FILED**  
JAN 31 2014  
Clerk of the Courts  
Rec'd By \_\_\_\_\_

IN THE SUPREME COURT OF TENNESSEE, AT NASHVILLE

IN RE:        PETITION TO AMEND TENNESSEE    )        NO. ADM2013-02417  
                 SUPREME COURT RULE 21        )

**PETITION TO AMEND TENNESSEE SUPREME COURT RULE 21  
GOVERNING THE REQUIREMENTS OF CONTINUING LEGAL EDUCATION**

COMMENTS OF ROBERT M. STIVERS, JR., BPR NO. 000737

I would submit the following as two (2) comments with regard to the above-Petition, and particularly with regard to the proposed amendment to TSCR 21, Section 2.04(a), proposed to eliminate the exemption for lawyers age sixty-five (65) and older from annual CLE certification:

**I.**

At pages 2 and 3 of the original Petition, the Tennessee Commission on Continuing Legal Educational and Specialization (“Commission”), advances that the exemption for lawyers over age sixty-five (65) should be stricken, and, instead, those lawyers at and above that age should be required to secure continuing legal education on an annual basis. As evidence of the need for having lawyers over age sixty-five (65) continue to take continuing legal education, reference is made to Exhibit E to the Petition, and it is pointed out that lawyers in the over sixty-five (65) and over age group have more complaints filed against them than do the lawyers in the age twenty-five (25) to thirty-four (34) age group, and a chart, Exhibit E, is attached to support that premise. The Commission continues to say that this is a reason for requiring continuing legal education, implying that lawyers in the oldest bracket are “performing” less well than those beginning the practice of law, who are required to take continuing legal education; however, a simple review of Exhibit E shows the fallacy of the Commission’s reasoning in this regard.

By simply reviewing the complaints filed, versus the active attorneys in Tennessee as of August 22, 2013, an interesting pattern emerges, which is obviously completely contradictory to the Commission's position. It is absolutely correct that, among the lawyers in the ages twenty-five (25) to thirty-four (34) group, some thirty-four percent (34%) of the lawyers had a complaint against them, assuming an individual complaint matches an individual lawyer. Going further, the Commission is exactly correct when it states that, for the age sixty-five (65) and older bracket, forty percent (40%) of the attorneys would have a complaint against them based on the same criterion. The balance of Exhibit E is omitted from the discussion, but should be reviewed by the Court.

In the lawyers thirty-five (35) to forty-four (44) age group, sixty-four percent (64%) of the attorneys had a complaint filed against them; in the age fifty-five (55) to sixty-four (64), seventy percent (70%) of the lawyers would have had a complaint filed against them; finally, in the age forty-five (45) to fifty-four (54) bracket, eighty-eight percent (88%) of the attorneys would have had an complaint filed against them, under the facts presented in Exhibit E. In each of those age groups, from age thirty-five (35) to age sixty-four (64), continuing legal education is required. At the same time, the highest number of complaints per number of lawyers is found among the age forty-five (45) to fifty-four (54) bracket, and is over twice the number of complaints to the number of attorneys in the age sixty-five (65) and older bracket. Under the premise advanced by the Commission, either the need for continuing legal education is the greatest for the forty-five (45) to fifty-four (54) age group, or lawyers age sixty-five (65) and older do better without continuing legal education, than they might have done earlier in their careers.

If the Court is to remove the exemption for lawyers over sixty-five (65), then a rational basis for that removal needs to be found and not theory advanced by the Commission, that, without continuing legal education, lawyers above age sixty-five (65) become less ethical than their younger counter parts; this is simply a false presumption.

## II.

If the Court does see fit to remove the exemption for lawyers age sixty-five (65) and older, then a decision should be made as to if a “grandfather” provision is needed in the Rules. For example, in August 2013, there apparently were 2,827 attorneys over the age of sixty-five. The Commission never mentions how many of those lawyers have asked for, and received the exemption, but we could assume, probably falsely, that each one has asked to be exempted. Are those lawyers to now be required to make-up continuing legal education requirements for all prior years from which they were exempted, or does the removal of the exemption come into play for succeeding years only?

## III.

As a summary, and as a member of the effected group, I would hope that the Court will take the view that a factual basis for removing the exemption should be found, or any consideration of the false theory that the lawyers age sixty-five (65) and older have more complaints filed against them than their younger counter-parts be stricken from consideration. There are a number of lawyers in the over sixty-five (65) bracket that enjoy continuing to maintain their membership at the Bar, but focus on very specific areas of practice, and are quite comfortable in declining to take matters in other areas of practice. Also, some lawyers in the age sixty-five (65) and older category have in excess of forty (40) years of practice at the Bar, with continuing legal education, which, hopefully, has not been lost by age.

Respectfully submitted this 30<sup>th</sup> day of January, 2014.

Robert M. Stivers, Jr. w/pem  
LMS

ROBERT M. STIVERS, JR.  
BPR No. 000737  
Attorney at Law  
P. O. Box 10911  
Knoxville, TN 37939-0911  
(865) 386-1630

STATE OF TENNESSEE    )  
COUNTY OF KNOX        )

I, Robert M. Stivers, Jr., do hereby certify that I have caused to be delivered by United States Mail a true and exact copy of the foregoing comments to Tom Greenholtz, Chairperson, and Judy Bond-McKissack, J.D., Executive Director, Tennessee Commission on Continuing Legal Education and Specialization, 221 Fourth Avenue North, Suite 300, Nashville, TN 37219, by depositing the same in the United States Mail to them at that address.

WITNESS my hand this 30<sup>th</sup> day of January, 2014.

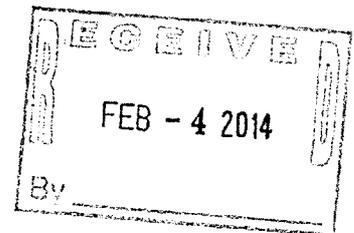
Robert M. Stivers, Jr. w/pem  
LMS

ROBERT M. STIVERS, JR.

# KM KENNERLY MONTGOMERY

*Attorneys & Counselors Since 1916*

February 1, 2014



Mike Catalano, Clerk  
Re: Tenn. Sup. Ct. R. 21  
Appellate Court Clerk's Office  
100 Supreme Court Building  
401 7th Avenue North  
Nashville, TN 37219-1407

In Re: Petition For Adoption Of Amended Tennessee Supreme Court Rule 21 -- No.  
Adm2013-02417

Dear Mr. Catalano:

On my 65th birthday, I am writing this comment on the proposed CLE rule change for Tennessee lawyers. The rule would extend the 15 hour per year rule for CLE to lawyers age 65 and over, a group that has previously been exempt.

I have to tell you that I was looking forward to the benefit of the rule. Not because I mind learning, but because I'm of a generation -- as some of you may be -- that does not like to be compelled to do anything. I was looking forward this year to picking what I wanted to learn, not necessarily from the limited catalog of lawyer courses. In my practice, math, statistics, actuarial principals, industrial organizational physiology, business management, financial investment, etc., would all be pertinent, useful to my clients, and of interest to me.

However, I am continuing to practice law, I am continuing to receive the benefits of the privilege of my license, I am continuing to enjoy working with my older and younger colleagues, I am continuing to charge a fee to lay people who rely on my advice on the law, I am continuing to take assignments that my younger fellows at the bar would otherwise get, and I continue to be embarrassed by people with law licenses who do a poor job, whether from lack of knowledge or otherwise.

Our firm, Kennerly Montgomery, is almost 100 years old and we are working hard to adapt to the technology, social, media, government, economic, demographic, and other changes facing the profession, to be ready for the next 5, 10 and more years. One of the changes is that people live and work longer than in the past. Continuing education for capable lawyers is not one of the things that I expect to change.

Mike Catalano  
February 1, 2014  
Page 2

I agree the good of our profession requires the adoption of the rule, and I urge the Court to promulgate it. Happy Birthday.

Respectfully submitted,

A handwritten signature in black ink that reads "William E. Mason". The signature is written in a cursive style with a long, sweeping underline.

William E. Mason  
BPR # 001481

LAW OFFICES

**SPEARS, MOORE, REBMAN & WILLIAMS**

PROFESSIONAL CORPORATION

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FACSIMILE (423) 756-4801

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January 31, 2014

WILLIAM D. SPEARS  
(1906-1992)

A. FRED REBMAN, III  
(1917-1992)

FORD P. MITCHELL  
(1930-1993)

MICHAEL W. BOEHM  
(1944-1996)

ALVIN O. MOORE  
(1912-1998)

WILLIAM L. TAYLOR, JR.  
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SILAS WILLIAMS, JR.  
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BRIE ALLAMAN STEWART  
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KURT A. SCHMISSRAUTER, JR.

Supreme Court of Tennessee at Nashville  
C/O Mike Catalano, Clerk  
Re: Tenn. Sup. Ct. R. 21  
Appellate Court Clerk's Office  
100 Supreme Court Building  
401 7th Avenue North  
Nashville, TN 37219-1407

Re: Docket No. ADM2013-02417

Dear Sirs:

The Tennessee Commission on Continuing Legal Education (the "Commission") has filed a petition with the Supreme Court of Tennessee (the "Court") on October 30, 2013, proposing various changes to the Court's Rule 21. This petition reflects many hours of hard work, performed as a public service, by excellent and careful lawyers. Nevertheless, the undersigned respectfully urge the Court to deny the portion of the petition which proposes to delete section 2.04(a) of the present Rule 21, i.e., the exemption from continuing legal education ("CLE") requirements as to attorneys over age 65 who are and continue to be otherwise in good standing to practice law in this state.

In its proposal, the Commission argues (at least implicitly) that (1) attorneys aged 65+ are generating more complaints than their youngest counterparts (specifically attorneys aged 25-34), who are required to attend CLE instruction, (2) the imposition of CLE requirements on attorneys aged 65+ will reduce the number of complaints against us, (3) CLE is so obviously beneficial that every lawyer (and, by extension, every client)

FEB - 6 2014

in the state should, in the words of the Commission, “enjoy the benefits” it confers, and (4) there will be more attorneys aged 65+ in the years to come. The undersigned address these points in turn.

In support of (1), the Commission has attached to the petition and relies upon Exhibit E, a table that breaks down the total number of complaints filed against Tennessee attorneys in 2013 (actually, January to August, a period of less than eight months) into age categories. Exhibit E’s deficiencies are numerous. A copy is attached.

The gross total shown is 13,162 complaints against 21,142 attorneys collectively. When compared to earlier years, this is an astronomical, even unbelievable number of complaints for an eight-month period, and Exhibit E thus appears facially defective. In addition, it is impossible to tell from the data adduced (a) what types of complaints are being lodged or their relative frequency, (b) whether the numbers from 2013 for over-65 lawyers are consistent with those from the previous twenty-six years and (c) the rate at which exempt lawyers take voluntary CLE. Still, this is the data the Commission presents and on which it bases its recommendation.

Even ignoring these flaws in the data collection and accepting the accuracy of these figures, Exhibit E does nothing to advance the Commission’s arguments. Of special note is the rate at which complaints are purportedly filed when analyzed according to age. Lawyers aged 25-34 had a complaint rate of .34 complaints per lawyer; those aged 35-44 had a rate of .64; those aged 45-54 had a rate of .88 (!); those aged 55-64 had a rate of .70; and those aged 65+ had a rate of .40. As these numbers plainly show, 25-34-year-olds were the only age group generating complaints at a lower rate than lawyers over 65, and the difference is insignificant. Moreover, the lawyers with the greatest exposure to CLE (ages 35-64) have, by far, the highest rates of complaints lodged against them.

Thus, point (1), that the rate of complaints against lawyers aged 65+ is a problem that needs correcting, is facially invalid according to the numbers provided by the Commission itself. Indeed, if the only factor involved in the generation of complaints is the absence or presence of CLE, the Commission’s numbers suggest that less is better than more, and the status quo is more benign than the processed amendment.

Even assuming that the Commission’s figures did not directly contradict the inference that older lawyers were generating complaints at a greater rate than non-exempt younger lawyers, argument (2), that imposing a CLE requirement on them would lower the complaint rate, is intuitively not well grounded.

As noted above, the data provided do not categorize the types of complaints being filed; thus, it is impossible to tell if the complaints relate to attorney ethics (which CLE probably cannot substantially improve), or to problems of addiction or failures of mental capacity (which CLE cannot cure), or professional knowledge base (which CLE, as opposed to ordinary research and attention to advance sheets, might marginally advance), or were summarily rejected by the BPR, etc.

The above paragraph notwithstanding, and with respect to argument (3), it is beyond our scope of purpose here to attack CLE as an institution or quibble about whatever benefits it may confer. But it imposes significant costs that many older practitioners may decide outweigh continued practice. CLE is inconvenient, and it is not cheap. It takes more than two days' of most attorneys' time to reach the fifteen-hour threshold, and "a lawyer's time and advice is his stock in trade." Moreover, the out-of-pocket costs are far from nominal. The law firm in which the undersigned practice estimates that its costs for CLE have averaged about \$1,600.00 per attorney during the last twelve months, including tuition, fees, travel, lodging, and other legitimate expenses. When weighing the time invested and the out-of-pocket cost against the perceived benefits of continued practice contingent on CLE participation, many over-65 attorneys may doubt that the game is worth the candle.

To the extent that eliminating the exemption will encourage departure of older, experienced, and usually wiser attorneys from the bar, it would do a grave disservice to those departing practitioners, to their clients, and to the bar.

While it could create more work opportunities for younger lawyers, the overall effect of such departure on younger lawyers and the public would be unfortunate, because wisdom is so heavily correlated with experience. Younger lawyers learn a great deal about proper comportment, ethical conduct, and legal practice by observing and imitating "veterans of the bar," as the Commission graciously characterizes us, and, as the saying goes, these skills are more often caught than taught. Old heads are a resource, not a liability, and should be encouraged to stick around. War stories, after all, do tell one something about how war is waged.

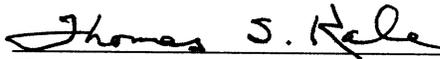
The present rule and the exemption at issue have existed since 1987, so far as the undersigned can tell. Beyond the arguments discredited above, and facts purportedly showing that the number of attorneys aged 65+ is increasing year by year (argument (4)) that have the character of non sequitur, the Commission has not explained why an exemption that has existed for nearly thirty years without injury to the public, the bar,

January 31, 2014  
Page 4

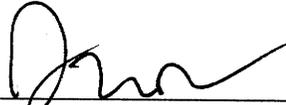
or the legal system must now be eliminated. Given this paucity of evidence and sound reasoning, the undersigned contend that the exemption should remain as it is.

Sincerely yours,

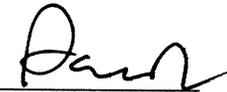
SPEARS, MOORE, REBMAN & WILLIAMS, P.C.



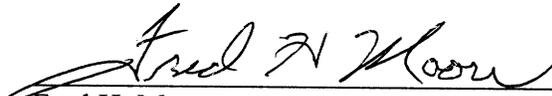
Thomas S. Kale



Scott N. Brown, Jr.

W. Ferber Tracy by  with  
permission

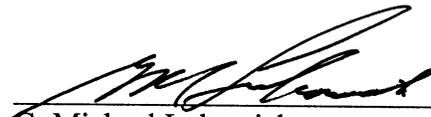
W. Ferber Tracy



Fred H. Moore



David C. Burger



G. Michael Luhowiak

cc: Tennessee Bar Association  
221 4th Avenue North, Suite 400  
Nashville, Tennessee 37219

Chattanooga Bar Association  
801 Broad Street, Suite 420  
Chattanooga, Tennessee 37402

LAW OFFICES

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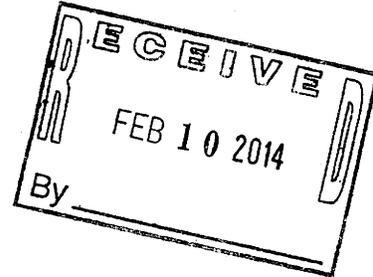
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CASSIE COOPER RIEDER  
KURT A. SCHMISSRAUTER, JR.

February 6, 2014

Supreme Court of Tennessee at Nashville  
C/O Mike Catalano, Clerk  
Re: Tenn. Sup. Ct. R. 21  
Appellate Court Clerk's Office  
100 Supreme Court Building  
401 7th Avenue North  
Nashville, TN 37219-1407



Re: Docket No. ADM2013-02417

Dear Sirs:

We are not certain whether we attached the Commission's Exhibit E to our January 31, 2014 letter. As a result we enclose that Exhibit. We request this be added to our January 31 letter and apologize for the inconvenience.

Sincerely yours,

SPEARS, MOORE, REBMAN & WILLIAMS, P.C.

A handwritten signature in black ink, appearing to be "Scott N. Brown, Jr.", written over a horizontal line.

Scott N. Brown, Jr.

cc: Tennessee Bar Association  
221 4th Avenue North, Suite 400  
Nashville, Tennessee 37219

Chattanooga Bar Association  
801 Broad Street, Suite 420  
Chattanooga, Tennessee 37402

EXHIBIT E to Petition to Amend Tennessee Supreme Court Rule 21  
 Complaints Filed with the Board of Professional Responsibility in 2013

**RECEIVED**  
 FEB 10 2014  
 Clerk of the Courts  
 Rec'd By \_\_\_\_\_

Complaints Filed			Active Attorneys in Tennessee as of 8/22/2013		
13,162			21,142		
Number	Age Group	Percent of Total Complaints	Number	Age Group	Percent of Total Attorneys
1,139	65+	8.65%	2,827	65+	13.37%
3,206	55-64	24.36%	4,588	55-64	21.70%
4,096	45-54	31.12%	4,645	45-54	21.97%
3,453	35-44	26.23%	5,398	35-44	25.53%
1,268	25-34	9.63%	3,684	25-34	17.43%

**Table 2:**

Number of Complaints filed with the Board of Professional Responsibility for Calendar Year 2013.

Source: Tennessee Board of Professional Responsibility

Charles I. Poole\*  
Attorney At Law  
Licensed in Tennessee and Florida  
\*Certified Criminal Trial Specialist  
lawpoole@hotmail.com

Timothy J. Gudmundson  
Attorney At Law  
lawpoole\_tjg@hotmail.com

Belinda Jamerson  
Certified Paralegal  
lawpoole\_bj@hotmail.com

Chief Justice Gary R. Wade  
505 Main Street, Suite 200  
PO Box 444  
Knoxville, TN 37901

**RE: CLE Credits for *Pro Bono* Services  
for Non-profit Organization**

Dear Chief Justice Wade:

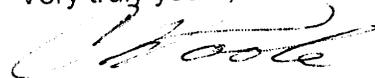
At the suggestion of Bill Calhoun, Esq., Associate Director, Tennessee Commission on CLE and Specialization, I am respectfully requesting that the Tennessee Supreme Court consider amending Rule 21 § 4.07(c) to include *pro bono* legal representation to a corporation organized under the Non-Profit Public Benefit Corporation Law for charitable purposes.

Mr. Calhoun has advised me that he has discussed this matter with Judy McKissack, the Executive Director of Tennessee CLE, and she agreed that the current Rule 21 does not allow *pro bono* credit for providing free legal advice to a non-profit organization.

I have been serving as *pro bono* counsel for Safe Harbor Child Advocacy Center, Inc. since September 25, 2008 and in 2012 I provided in excess of 150 hours of *pro bono* services and in 2013, I provided well over 100 hours and probably closer to 150-200 hours of *pro bono* services. I have enclosed for your reference copies of letters from Donna Koester, Executive Director of Safe Harbor acknowledging my services.

I am enclosing a copy of the Charter of Safe Harbor Child Advocacy Center, Inc., for your reference. Thank you for your consideration of this suggestion.

Very truly yours,



Charles I. Poole

CiP/mc  
Cc: Bill Calhoun, Esq.  
Donna Koester  
Enclosures (2)

# CHARLES POOLE AND ASSOCIATES, PLLC

118 COURT AVENUE • SUITE ONE • SEVIERVILLE, TN 37862  
www.charlespooleandassoc.com

Telephone  
865.453.5000  
877.500.LAW1  
Facsimile  
865.453.5147  
877.600.LAW1

January 27, 2014

ADM2013-02417

**RECEIVED**

**FEB 13 2014**

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



CHILD ADVOCACY CENTER, Inc.

*4th Judicial District of Tennessee*

*Cocke, Grainger, Jefferson & Sevier Counties*

October 18, 2013

Mr. Charles I. Poole, Esq.  
Charles Poole & Associates, PLLC  
118 Court Ave.  
Sevierville, TN 37862

Dear Mr. Poole,

Once again we write to thank you for the incredible patience and skill you have shown to Safe Harbor and our Staff for the benefit of the victimized children and adolescents that we serve. Your willingness to share your expertise on our behalf has only been compounded by the fact that you have graciously offered it at no charge to us. Your pro-bono services have been appreciated far more than you will ever know.

This past year seemed to be incredibly intense, filled with one legal challenge after the other as we faced several subpoenas and legal battles over the confidentiality of our HIPAA records, personnel and forensic interview files, etc. I know that you spent well over 100 hours and probably closer to 150-200 hours, which you donated on our behalf in consultation, correspondence and court appearances. Your willingness to represent us as we strive to provide the best services possible for the physically and sexually abused children we serve has allowed us to concentrate on other matters and to direct our limited resources to specific client services such as therapy and non-offender caregiver support.

Please accept our heartfelt appreciation for your services for yet another year.

Gratefully for the Children,

Donna J. Koester  
Executive Director

1266 Foster Avenue Nashville, TN 37210  
(615) 327-9450 Phone (615) 327-9896 Fax  
*It shouldn't Hurt to be a Child*

P.O. Box 4536 • Sevierville, TN 37864-4536 • (865) 774-1777



**Safe Harbor**  
CHILD ADVOCACY CENTER, Inc.  
*4th Judicial District of Tennessee*  
*Cocke, Grainger, Jefferson & Sevier Counties*

March 28, 2013

Mr. Charles Poole, Esq.  
Charles Poole & Associates. PLLC  
118 Court Ave.  
Sevierville, TN 37862

Dear Charles,

It is with grateful heart that I write to personally "Thank You" for the 150 plus hours of research, legal consultation, phone calls, correspondence and court accompaniment that you have provided pro bono on behalf of SAFE HARBOR Child Advocacy Center for the 2012 calendar year.

I know that at times our needs have seemed particularly time consuming this year, especially with the approximately five months we spent resolving one difficult case. You have always returned my calls in a timely manner, and addressed each issue we faced with courtesy, knowledge and professionalism. Being a non-profit, especially during these difficult economic times, I cannot begin to thank you enough as without your willingness to share your expertise and personal commitment without compensation we would have had difficulty securing experienced representation.

Thank you again.

Respectfully for the Children,



Donna J. Koester  
Executive Director



CHILD ADVOCACY CENTER, Inc.  
 Of Tennessee's Fourth Judicial District  
 Serving Cocke, Grainger, Jefferson & Sevier counties  
 Post Office Box 4536  
 Sevierville, Tennessee 37864  
 Phone: (865) 774-1777 Fax: (865) 774-8063  
 www.SafeHarborCAC.com

## Facsimile Transmission

To: *Charles Poole, Atty*  
 Fax: *453-5147*  
 Phone:  
 Re:

From: *Safe Harbor CAC*  
 Pages: *5 including cover sheet*  
 Date: *6-15-12*  
 Cc:

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Comments:

Secretary of State

Division of Business Services

312 Eighth Avenue North  
6th Floor, William R. Snodgrass Tower  
Nashville, Tennessee 37243

DATE: 09/01/05  
REQUEST NUMBER: 5540-1919  
TELEPHONE CONTACT: (615) 741-2286  
FILE DATE/TIME: 09/01/05 1107  
EFFECTIVE DATE/TIME: 09/01/05 1107  
CONTROL NUMBER: 0501488

VOL:2336/496-499

05044922

TO:  
SAFE HARBOR CHILD ADVOCACY CENTER, INC.  
735 OLD DOUGLAS DAM  
ROAD  
SEVIERVILLE, TN 37876

CH 4 PG BA: 67940
09/07/2005 02:05 PM
VALUE 0.00
MTG TAX 0.00
TRN TAX 0.00
REC FEE 5.00
DP FEE 2.00
REG FEE 0.00
TOTAL 7.00

RE:  
SAFE HARBOR CHILD ADVOCACY CENTER, INC.  
CHARTER - NONPROFIT

STATE OF TENNESSEE, SEVIER COUNTY  
SHERRY ROBERTSON HUSKEY  
REGISTER OF DEEDS

CONGRATULATIONS UPON THE INCORPORATION OF THE ABOVE ENTITY IN THE STATE OF TENNESSEE, WHICH IS EFFECTIVE AS INDICATED.

A CORPORATION ANNUAL REPORT MUST BE FILED WITH THE SECRETARY OF STATE ON OR BEFORE THE FIRST DAY OF THE FOURTH MONTH FOLLOWING THE CLOSE OF THE CORPORATION'S FISCAL YEAR. ONCE THE FISCAL YEAR HAS BEEN ESTABLISHED, PLEASE PROVIDE THIS OFFICE WITH THE WRITTEN NOTIFICATION. THIS OFFICE WILL MAIL THE REPORT DURING THE LAST MONTH OF SAID FISCAL YEAR TO THE CORPORATION AT THE ADDRESS OF ITS PRINCIPAL OFFICE OR TO A MAILING ADDRESS PROVIDED TO THIS OFFICE IN WRITING. FAILURE TO FILE THIS REPORT OR TO MAINTAIN A REGISTERED AGENT AND OFFICE WILL SUBJECT THE CORPORATION TO ADMINISTRATIVE DISSOLUTION.

WHEN CORRESPONDING WITH THIS OFFICE OR SUBMITTING DOCUMENTS FOR FILING, PLEASE REFER TO THE CORPORATION CONTROL NUMBER GIVEN ABOVE. PLEASE BE ADVISED THAT THIS DOCUMENT MUST ALSO BE FILED IN THE OFFICE OF THE REGISTER OF DEEDS IN THE COUNTY WHEREIN A CORPORATION HAS ITS PRINCIPAL OFFICE IF SUCH PRINCIPAL OFFICE IS IN TENNESSEE.

FOR: CHARTER - NONPROFIT

ON DATE: 09/01/05

FROM:  
BILL YETT  
735 DOUGLAS DAM RD.  
SEVIERVILLE, TN 37862-0000

RECEIVED: FEES \$100.00 \$0.00  
TOTAL PAYMENT RECEIVED: \$100.00

RECEIPT NUMBER: 00003794682  
ACCOUNT NUMBER: 00090462



*Riley C. Darnell*

RILEY C. DARNELL  
SECRETARY OF STATE

**CHARTER**

**OF**

**SAFE HARBOR CHILD ADVOCACY CENTER, INC.**

2008 SEP -1 AM 11:07

SECRETARY OF STATE

The undersigned, acting as the Incorporator under the Tennessee Nonprofit Corporation Act, adopts the following Charter for such Corporation:

- 1. The name of the Corporation is:

**SAFE HARBOR CHILD ADVOCACY CENTER, INC.**

**FILED**

- 2. The Corporation a nonreligious, public benefit corporation.

- 3. The street address and zip code of the Corporation's initial registered office

is:

**719 Hickory Hills Road  
Sevierville, Tennessee 37862**

- 4. The Corporation's initial registered office is located in Sevier County, Tennessee.

- 5. The name of the Corporation's initial registered agent at that office is:

**Donna J. Koester**

- 6. The name, address, and zip code of the incorporator is:

**Carole L. Yett  
735 Old Douglas Dam Road  
Sevierville, Tennessee 37876**

- 7. The street address and zip code of the principal office of the Corporation is:

**719 Hickory Hills Road  
Sevierville, Tennessee 37862**

- 8. The Corporation is not for profit.

- 9. Members of the Board of Directors shall constitute membership of the Corporation.

- 10. The Corporation is a nonprofit public benefit corporation and is not organized

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for private gain of any person. It is organized under the Nonprofit Public Benefit Corporation Law for charitable purposes. Such purposes for which this Corporation is formed are exclusively charitable and educational within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986. More particularly, the mission of **SAFE HARBOR CHILD ADVOCACY CENTER, INC.**, is to meet the physical, emotional, and educational needs of physically and sexually abused and neglected children, including the operation of facilities in which professionals gather to provide services to children and non-offending family members in crisis and in need, and in the distribution of information concerning family violence and child abuse and neglect in the counties of Cocke, Grainger, Jefferson and Sevier which is the Fourth Judicial District of the State of Tennessee. The Corporation shall focus its efforts and resources in the areas of treatment, prevention, education and research with the intent of combating and eventually eradicating child abuse and neglect.

11. This Corporation is organized and operated exclusively for charitable purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986.

12. No substantial part of activities of this Corporation shall consist of carrying on propaganda, or otherwise attempting to influence legislation, and this Corporation shall not participate or intervene in any political campaign (including the publishing or distribution of statements) on behalf of any candidate for public office.

13. Notwithstanding any other provision of these Articles, this Corporation shall not carry on any activities not permitted to be carried on (a) by a corporation exempt from Federal income tax under Section 501(c)(3) of the Internal Revenue Code of 1986 (or corresponding provision of any future United States Internal Revenue Law), or (b) by corporation contributions to which are deductible under Section 170(c)(2) of the Internal Revenue Code of 1986 (or corresponding provision of any future United States Internal Revenue Law).

14. The property, assets, profits and net income of this Corporation are dedicated irrevocably to charitable and educational purposes, and no part of its profits or net income of this Corporation shall ever inure to the benefit of any director, trustee, officer or member thereof or to the benefit of any private individual.

15. No Director or Officer of the Corporation shall be personally liable to the Corporation for monetary damage for breach of duty of loyalty to the Corporation except for acts or omissions not in good faith, or which involve intentional misconduct or a knowing violation of law or for unlawful distributions.

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DATED: The 31<sup>st</sup> day of August, 2005.

**Incorporator**

Carole L. Yett  
Carole L. Yett