TENNESSEE BAR
ASSOCIATION

PRESIDENT
Jackie Dixon
424 Church Street
Suite 2260
Nashville, Tennessee 37219
(615) 986-3377
FAX (615) 635-0018
Email: jdixon@wmdlawgroup.com

PRESIDENT-ELECT
Cindy Wyrick
P.O. Box 5365
Sevierville, Tennessee 37862
(865) 453-2866
FAX (865) 429-1540
Email: crwyrick@ogrlawfirm.com

VICE PRESIDENT
Jonathan Steen
464 North Parkway, Suite A
Jackson, Tennessee 38305
(731) 660-2332
FAX (731) 664-1109
Email: jsteen@rsslawfirm.com

TREASURER
Sherie Edwards
P.O. Box 1065
Brentwood, Tennessee 37024
(615) 846-8205
FAX (615) 846-6070
Email: sheriee@svmic.com

SECRETARY
Jason Pannu
424 Church Street
Suite 2500
Nashville, Tennessee 37219-8615
(615)259-1366
Fax: (615)259-1389
Email: jpannu@lewisking.com

IMMEDIATE PAST PRESIDENT
Danny Van Horn

BOARD OF GOVERNORS
Dan Berexa, Nashville
Tasha Blakney, Knoxville
Carl Carter, Memphis
Jason Creasy, Dyersburg
James Crumlin, Nashville
Kim Helper, Franklin
Bobby Hibbett, Lebanon
The Honorable Robert Holloway, Columbia
Frank Johnstone, Kingsport
Jason Long, Knoxville
David McDowell, Chattanooga
Andrew Sellers, Jackson
Michelle Sellers, Jackson
Charles Trotter, Huntingdon
Chris Varner, Chattanooga
David Veile, Franklin
Guy Wilkinson, Camden
Randall York, Cookeville

GENERAL COUNSEL
Paul Ney, Nashville

EXECUTIVE DIRECTOR
Allan F. Ramsaur, Nashville
Email: aramsaur@tnbar.org

NOV 28 2012

November 26, 2012

The Honorable Michael Catalano
Clerk, Tennessee Supreme Court
Supreme Court Building, Room 100
401 Seventh Avenue North
Nashville, TN 37219

IN RE: PETITION TO AMEND RULE 33 OF
THE RULES OF THE SUPREME COURT

Dear Mike:

Attached please find an original and six copies of the Comment of the Tennessee Bar Association in reference to the above matter.

As always, thank you for your cooperation. I remain,

Very truly yours,

Allan F. Ramsaur
Executive Director

cc: Jackie Dixon, President, Tennessee Bar Association
Brian Faughnan, Chair, TBA Standing Committee on Ethics & Professional Responsibility
Kay Caudle, Chair, TBA Attorney Well Being Committee
Paul Ney, TBA General Counsel
Service List

Tennessee Bar Center
221 Fourth Avenue North, Suite 400
Nashville, Tennessee 37219-2198
(615) 383-7421 • (800) 899-6993
FAX (615) 297-8058
www.tba.org

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

FILED
2012 NOV 28 PM 1:11
APPELLATE COURT CLERK
NASHVILLE

IN RE: PETITION TO AMEND RULE 33 OF THE RULES OF THE SUPREME COURT	)))))	**No. M2012-01897-SC-RL1-RL**

COMMENT OF THE TENNESSEE BAR ASSOCIATION

The Tennessee Bar Association ("TBA"), by and through its President, Jacqueline B. Dixon; Chair, TBA Standing Committee on Ethics and Professional Responsibility, Brian S. Faughnan; Chair, TBA Attorney Well Being Committee, Kathryn S. Caudle; General Counsel, Paul C. Ney; and Executive Director, Allan F. Ramsaur, files this comment with the Tennessee Supreme Court generally in support of the changes detailed in the petition.

BACKGROUND

On September 6, 2012, the Commission of the Tennessee Lawyers Assistance Program ("TLAP") filed a petition asking this Honorable Court to amend Rule 33

in several respects. On October 15, 2012, the Court issued an order soliciting written comments from the bench, bar and public regarding the petition. The TBA leadership requested that the TBA Committees on Attorney Well Being and Ethics & Professional Responsibility each review the changes and make recommendations.

Based upon those recommendations, the TBA Executive Committee adopted a position generally in support of the petition with two editorial changes.

1. THE PETITION SHOULD BE ADOPTED WITH MINOR EDITORIAL CHANGES

The principal purpose of the petition is to clarify the various types of monitoring agreements which TLAP may enter into and clarify the responsibilities of the contract participant and those who request the monitoring. The TBA is in full agreement with the purpose of the petition and the manner in which the petition addresses those various rights and responsibilities.

There are two editorial changes which the TBA would propose. Under the proposed amendment to TN. Sup. Ct. Rule 33.05(E)(2), the first sentence and subsequent sentences use different words to reflect the entity to which reports are made. In the first sentence, the participant may request monitoring with reporting to "a non-disciplinary authority" and in subsequent sentences, the reporting is to a "reporting designee." The TBA proposes that the first sentence of TN. Sup. Ct. Rule 33.05(E)(2) be amended to provide that "a contract participant may request monitoring with reporting to a non-disciplinary agency as the reporting designee." This would clarify that the non-disciplinary agency and reporting designee are one in the same.

The TBA's second editorial comment is to recommend that the second sentence of Rule 33.05(3) be revised to include a licensing authority as well unless the Court truly intends for only the disciplinary authority being able to make such a request in writing. If that is not the intent, then the TBA would suggest that the words "or licensing authority" be added after the word "disciplinary authority" in that second sentence to avoid any confusion.

CONCLUSION

The Tennessee Bar Association has been constant and consistent in its support of the adoption of the creation and operation of the Tennessee Lawyers Assistance Program. With two proposed edits, the TBA recommends adoption of the proposed changes.

RESPECTFULLY SUBMITTED,

By: /s/ by permission

JACQUELINE B. DIXON (012054)
President, Tennessee Bar Association
Weatherly, McNally & Dixon PLC
424 Church Street, Suite 2260
Nashville, TN 37219
(615) 986-3377

By: /s/ by permission

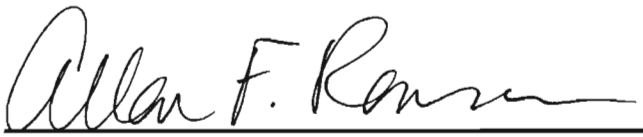
BRIAN S. FAUGHNAN (019379)
Chair, Tennessee Bar Association
Standing Committee on Ethics &
Professional Responsibility
Thomason, Hendrix, Harvey, Johnson &
Mitchell PLLC
40 S. Main Street, Suite 2900
Memphis, TN 38103
(901) 577-6139

By: /s/ by permission

KATHRYN S. CAUDLE (020677)
Chair, Tennessee Bar Association
Attorney Well Being Committee
Smith Travel Research Inc.
735 East Main Street
Hendersonville, TN 37075
(615) 824-8664

By: /s/ by permission

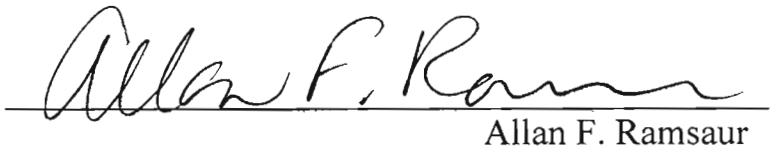
PAUL C. NEY (007012)
General Counsel,
Tennessee Bar Association
Waddey & Patterson
3504 Richland Avenue
Nashville, Tennessee 37205
(615) 242-2400

By: 

ALLAN F. RAMSAUR (005764)
Executive Director,
Tennessee Bar Association
Tennessee Bar Center
221 Fourth Avenue North, Suite 400
Nashville, Tennessee 37219-2198
(615) 383-7421

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 "A" by regular U.S. Mail, postage prepaid within seven (7) days of filing with the Court.



Allan F. Ramsaur

Kenneth Anderson
National Bar Association, Ben Jones Chapter
PO Box 3493
Memphis, TN 38173

Syd Beckman Beckman
Lincoln Memorial University Duncan School of Law
601 West Summit Hill Dr.
Knoxville, TN 37902

Suanne Bone
Tennessee Association of Criminal Defense Lawyers
121 21st Ave. N., Ste. 311
Nashville, TN 37203-5276

Emily Campbell Taube
Association for Women Attorneys
80 Monroe Avenue, Ste 700
Memphis, TN 38103

Erik Cole
Tennessee Alliance for Legal Services
50 Vantage Way Suite 250
Nashville, TN 37228

Amanda Dunn
SETLAW
P.O. Box 151
Chattanooga, TN 37401

Greg Grisham
Federal Bar Association Memphis Chapter
999 Shady Grove Road, Suite 110
Memphis, TN 38120

Stephen Johnson
Tennessee Association of Criminal Defense Lawyers
606 W Main Ave Ste 300
Knoxville, TN 37902

Charles Key
Tennessee Bar Foundation
1407 Union Avenue, Suite 700
Memphis, TN 38104--3641

Karol Lahrman
Tennessee Lawyers Association for Women
PO Box 331214
Nashville, TN 37203

Ursula Bailey
National Bar Association, William Henry Hastie Chapter
422 S. Gay St. Ste 301
Knoxville, TN 37902

Barri Bernstein
Tennessee Bar Foundation
618 Church St Suite 120
Nashville, TN 37219

Lucie Brackin
Association for Women Attorneys
65 Union Ave., 9th Floor, Cotton Exchange Bldg.
Memphis, TN 38103

Bryan Capps
Tennessee Association for Justice
550 Main Ave Ste 600
Knoxville, TN 37902

Walter Crouch
Federal Bar Association Nashville Chapter
P O Box 198966
Nashville, TN 37219

Melanie Gober
Lawyers Association for Women Marion Griffin Chapter
P O Box 190583
Nashville, TN 37219

Chris Guthrie
Vanderbilt University School of Law
131 21st Ave. South, Room 108
Nashville, TN 37203-1181

Laura Keeton
Lawyers Fund for Client Protection
PO Box 647
Huntingdon, TN 38344

Kaz Kikkawa
Tennessee Asian Pacific American Bar Association
One Park Plaza 1-4-E
Nashville, TN 37203

Joe Loser
Nashville School of Law
4013 Armory Oaks Drive
Nashville, TN 37204

John Barringer
Tennessee Defense Lawers Association
150 4th Ave N, Ste 2200
Nashville, TN 37219

Doug Blaze
University of Tennessee College of Law
1505 W. Cumberland Ave Rm 278
Knoxville, TN 37996

Jack Burgin
Tennessee Commission on Continuing Legal Education and Specialization
PO Box 629
Knoxville, TN 37901

Hewitt Chatman
National Bar Association, Ballard Taylor Chapter
511 Algie Neely Rd
Denmark, TN 38391

Jackie Dixon
Tennessee Bar Association
424 Church St Suite 2260
Nashville, TN 37219

David Green
National Bar Association, Napier-Looby Chapter
PO Box 198966
Nashville, TN 37219-8966

Lela Hollabaugh
Board of Professional Responsibility
1600 Division St. Suite 700
Nashville, TN 37203

Suzanne Keith
Tennessee Association for Justice
1903 Division St
Nashville, TN 37203

Jeff Kinsler
Belmont University College of Law
1900 Belmont Blvd
Nashville, TN 37212

Scott McGinness
Tennessee Board of Law Examiners
832 Georgia Ave Ste 1000
Chattanooga, TN 37402

Judy McKissack
Tennessee Commission on Continuing Legal Education and Specialization
221 Fourth Avenue North SUite 300
Nashville, TN 37219

Nikki Pierce
Federal Bar Association Northeast Tennessee Chapter
129 West Depot St Ste 100
Greeneville, TN 37745

Kristi Rezabek
Tennessee Lawyers Association for Women
231 Algie Neely Rd
Jackson, TN 38301

William Kratzke
University of Memphis Cecil C. Humphreys School of Law
1 North Front St.
Memphis, TN 38103

Chris Varner
Federal Bar Association Chattanooga Chapter
835 Georgia Ave, Suite 800
Chattanooga, TN 37402

Lisa Perlen
Tennessee Board of Law Examiners
66 Wyn Oak
Nashville, TN 37205

Mario Ramos
Tennessee Association of Spanish Speaking Attorneys
611 Commerce St Suite 3119
Nashville, TN 37203

Chantelle Roberson
National Bar Association, S.L. Hutchins Chapter
1 Cameron Hill Circle
Chattanooga, TN 37402

William Stover
Tennessee Alliance for Black Lawyers
500 Church St Ste 450
Nashville, TN 37219

Tony Vick
Board of Professional Responsibility
10 Cadillac Drive, Suite 220
Brentwood, TN 37027

Andrea Perry
Tennessee Alliance for Black Lawyers
511 Union Street, Suite 1600
Nashville, TN 37219

Allan Ramsaur
Tennessee Bar Association
221 4th Ave N Suite 400
Nashville, TN 37219

Mary Smith
Lawyers Association for Women
Marion Griffin Chapter
401 Commerce St., Ste. 700
Nashville, TN 37219-2484

Libby Sykes
Administrative Offices of the Courts
511 Union St Suite 600
Nashville, TN 37219

Terry Woods
East TN Lawyers Association for Women
502 S Gay St Suite 404
Knoxville, TN 37902

Heidi Barcus
Knoxville Bar Association
607 Market Street, Suite 900
Knoxville, TN 37902

Russell Blair
McMinn-Meigs County Bar Association
P.O. Box 804
Etowah, TN 37331

Mark Blakley
Scott County Bar Association
P O Box 240
Huntsville, TN 37756

Ben Boston
Lawrence County Bar Association
P O Box 357
Lawrenceburg, TN 38464

Christopher Brown
Bradley County Bar Association
3041 Sidco Drive
Nashville, TN 37204

Bill Brown
Jefferson County Bar Association
PO Box 1001
Cleveland, TN 37364

Diana Burns
Rutherford-Cannon County Bar Assn.
20 Public Square N. Room 202
Murfreesboro, TN 37130

John Cannon
Memphis Bar Association
22 N. Front Street, Suite 850
Memphis, TN 38013

Kirk Caraway
Memphis Bar Association
80 Monroe Ave Ste 650
Memphis, TN 38103

William Cockett
Johnson County Bar Association
PO Box 108
Mountain City, TN 37683

Bill Coley
Knoxville Bar Association
P O Box 869
Knoxville, TN 37901

Doug Collins
Hamblen County Bar Association
P O Box 1223
Morristown, TN 37816

Daryl Colson
Overton County Bar Association
808 North Church St
Livingston, TN 38570

Bratten Cook
Dekalb County Bar Association
104 N 3rd St
Smithville, TN 37166

Terri Crider
Gibson County Bar Association
P.O. Box 160
Humboldt, TN 38343

Robert Curtis
Giles County Bar Association
P.O. Box 517
Pulaski, TN 38478

Creed Daniel
Grainger County Bar Association
P O Box 6
Rutledge, TN 37861

Wade Davies
Knoxville Bar Association
PO Box 1126
Knoxville, TN 37901

Jason Davis
Morgan County Bar Association
520 North Ellington Parkway
Lewisburg, TN 37091

Michael Davis
Marshall County/Twelfth Judicial District Bar Association
PO Box 925
Wartburg, TN 37887

Dilliha
Robertson County Bar Association
516 S. Main Street
Springfield, TN 37172

William Douglas
Lauderdale County Bar Association
P O Box 489
Ripley, TN 38063

Joseph Ford
Franklin County Bar Association
17 S College St
Winchester, TN 37398

Andrew Frazier
Benton County Bar Association
P O Box 208
Camden, TN 38320

Anne Fritz
Memphis Bar Association
80 Monroe Suite 220
Memphis, TN 38103

James Gass
Sevier County Bar Association
PO Box 5365
Sevierville, TN 37864

Tish Holder
Hickman County Bar Association
820 Hwy 100
Centerville, TN 37033

Chuck Holliday
Jackson-Madison-Henderson County Bar Association
65 Stonebridge Blvd.
Jackson, TN 38305

Jason Holly
Carter County Bar Association
415 Hudson Dr
Elizabethton, TN 37643--2881

Lynda Hood
Chattanooga Bar Association
801 Broad St Suite 420 Pioneer Bldg
Chattanooga, TN 37402

Carmon Hooper
Haywood County Bar Association
P O Box 55
Brownsville, TN 38012

Jay Ingrum
Sumner County Bar Association
117 E Main St
Gallatin, TN 37066

Christopher Keeton
Coffee County Bar Association
401 MURFREESBORO HWY
MANCHESTER, TN 37355-1580

Randy Kennedy
Nashville Bar Association
625 Anderson St
Bristol, TN 37620

Michael King
Knoxville Bar Association
PO Box 900
Knoxville, TN 37901

John Kitch
Nashville Bar Association
2300 21st Ave S Ste 305
Nashville, TN 37212

David Kozlowski
Maury County Bar Association
P.O. Box 1256
Columbia, TN 38402

Gerald Largen
Roane County Bar Association
PO Box 266
Kingston, TN 37763

William Lawson
Unicoi County Bar Association
P O Box 16
Erwin, TN 37650

William Locke
Warren County Bar Association
111 So Courthouse Sq
Mc Minnville, TN 37110

Charles London
Washington County Bar Association
P.O. Box 1160
Johnson City, TN 37605

Ira Long
Chattanooga Bar Association
1205 Tallan Building
Two Union Square
Chattanooga, TN 37402

Matt Maddox
Carroll County Bar Association
P O Box 827
Huntingdon, TN 38344

Bob Mendes
Nashville Bar Association
150 3rd Ave So Ste 1900
Nashville, TN 37201

Timothy Mickel
Chattanooga Bar Association
One Central Plaza. Suite 800,
835 Georgia Avenue
Chattanooga, TN 37402

John Miles
Obion County Bar Association
P O Box 8
Union City, TN 38281

Robin Miller
Chattanooga Bar Association
PO Box 1749
Chattanooga, TN 37401

William Mitchell
White County Bar Association
112 South Main Street
Sparta, TN 38583

Cathy Morton
Blount County Bar Association
PO Box 4397
Maryville, TN 37802

Charles Morton
Williamson County Bar Association
130 Fourth Ave S
Franklin, TN 37064

Rachel Moses
Putnam County Bar Association
9 S Jefferson Ave., Ste 102
Cookeville, TN 38501

David Myers
Union County Bar Association
P O Box 13
Maynardville, TN 37807

Timothy Naifeh
Lake County Bar Association
227 Church St
Tiptonville, TN 38079

Tommy Parker
Memphis Bar Association
165 Madison Ave Ste 2000
Memphis, TN 38103

Beau Pemberton
Weakley County Bar Association
PO Box 789
Dresden, TN 38225

Erin Poland
Montgomery County Bar Association
408 Franklin St
Clarksville, TN 37040

Tim Potter
Dickson County Bar Association
210 E. College St.
Dickson, TN 37055

Brian Rife
Bristol Bar Association
110 Piedmont Avenue Suite 202
Bristol, VA 24201

Alan Rose
Cumberland County Bar Association
1183 Lawrence Rd
Murfreesboro, TN 37128--5706

Dora Salinas
Cheatham County Bar Association
104 Frey St
Ashland City, TN 37015

Dana Scott
Hawkins County Bar Association
1800 Huntington Woods Circle
Kingsport, TN 37660

Linda Seely
Memphis Bar Association
116 Tuckahoe Rd
Jackson, TN 38305

Randall Self
Lincoln County Bar Association
P O Box 501
Fayetteville, TN 37334

Amber Shaw
Tipton County Bar Association
114 W. Liberty Avenue, Suite 300
Covington, TN 38019

Tom Sherrard
Nashville Bar Association
150 3rd Ave S #1100
Nashville, TN 37201-2011

Marietta Shipley
Nashville Bar Association
2809 Wimbledon Rd.
Nashville, TN 37215

Ashley Shudan
Loudon County Bar Association
PO Box 905
Loudon, TN 37774

Gary Smith
Memphis Bar Association
6070 Poplar Ave #600
Memphis, TN 38119-3954

Craig Smith
Chattanooga Bar Association
832 Georgia Ave Ste 1000
Chattanooga, TN 37402

David Stanifer
Claiborne County Bar Association
PO Box 217
Tazewell, TN 37879

James Taylor
Rhea County Bar Association
1374 Railroad St Ste 400
Dayton, TN 37321

Harriet Thompson
Hardeman County Bar Associationt
P O Box 600
Bolivar, TN 38008

Albert Wade
Paris-Henry County Bar Association
70 Dowdy Lane
Paris, TN 38242

Tyler Weiss
Monroe County Bar Association
333 E. Harper Ave.
Maryville, TN 37804

Bernadette Welch
Nashville Bar Association
PO Box 158603
Nashville, TN 37215

John White
Bedford County Bar Association
P O Box 169
Shelbyville, TN 37162

Derreck Whitson
Cocke County Bar Association
P.O. Box 1230
Newport, TN 37822

John Lee Williams
Humphreys County Bar Association
102 S Court Square
Waverly, TN 37185

John Willis
Anderson County Bar Association
310 N. Main St.
Clinton, TN 37716-3752

Matthew Willis
Dyer County Bar Association
PO Box H
Dyersburg, TN 38025

Marsha Wilson
Knoxville Bar Association
P O Box 2027
Knoxville, TN 37901

Lindsey Wise
Greene County Bar Association
131 S MAIN ST STE 102
GREENEVILLE, TN 37743

Gigi Woodruff
Nashville Bar Association
150 4th Avenue N; Suite 1050
Nashville, TN 37219

Elizabeth Youmans
Fifteenth Judical District Bar Association
119 Public Square
Lebanon, TN 37087