>>> "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:

RECEIVED
NOV 21 2013
Clerk of the Courts
Rec'd By

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 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

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NOV 25 2013
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Rec'd by

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.

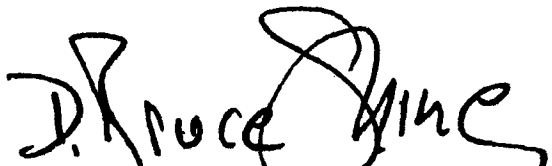
7. There is no rational reason nor does an objective academic study exist to support the proposition that attorneys over 65 would not benefit from the continuing legal education requirements inherent in the intent behind the adoption of Rule 21 in 1986.

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: 

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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

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,

James F. Sanders

JFS/mlk

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ALSO LICENSED IN VA AND NY

November 25, 2013

RECEIVED
NOV 26 2013
By

Mr. Michael W. Catalano, Clerk
Tennessee Supreme Court
100 Supreme Court Bldg
401 7th 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,

T. Maxfield Bahner

TMB/mms

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OF COUNSEL
LARRY W. LINDEEN

November 22, 2013

Justice Cornelia A. Clark
Supreme Court Building, Suite 318
401 7th Avenue North
Nashville, Tennessee 37219

ADM2013-02417

FILED
NOV 27 2013
Clerk of the Courts

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

Justice William C. Koch
Supreme Court Building, Suite 321
401 7th 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,

Aubrey B. Harwell, Jr.

ABHJr/lp

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

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Clerk of the Courts
Rec'd By

ADM2013-02417

November 26, 2013

Mike Catalano, Clerk
Tennessee Appellate Courts
100 Supreme Court Building
401 7th 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

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ADM2013-2417

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DEC 11 2013
Clerk of the Courts

December 9, 2013

Chief Justice Gary R. Wade
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Justice William C. Koch, Jr.
Supreme Court Building, Suite 318
401 7th Ave. N.
Nashville, TN 37219-1407

Justice Cornelia A. (Connie) Clark
Supreme Court Building, Suite 318
401 7th 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

Lew Conner

LC: mh
cc: Tom Greenholtz
Judy Bond-McKissack

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December 10, 2013

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

DEC 12 2013

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.

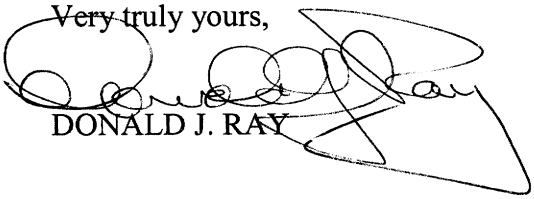
1. Perform some research on incremental license similar to the process young people go through to get a driver's license. For example, a limited license could be issued for an attorney who does not want any privileges of representing any client in Court. Although it's apparently not been studied, there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



DONALD J. RAY

DJR/jt

JOHN BUMPUS

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ADM2013-02417

RECEIVED
DEC 26 2013
By

December 24, 2013

Mr. Mike Catalano, Clerk
Re: Tennessee Supreme Court Rule 21
Appellate Court Clerk's Office
100 Supreme Court Building
401 7th 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.

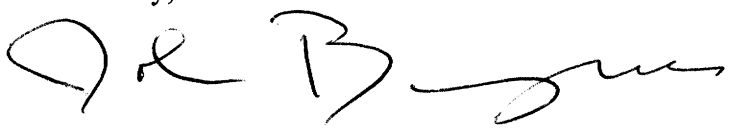
TCCLE's formal proposal in its Exhibit E cites the percentage of attorneys age 65 and older as of 8-22-2013—13.37%. But TCCLE's proposal document does not indicate what the percentage of attorneys age 65 and older has been each year throughout the history of mandatory CLE in Tennessee since its beginning 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

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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 7th Avenue North
Nashville, Tennessee 37219-1407

RECEIVED
JAN 13 2014
Clerk of the Courts
Rec'd By

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 respectively 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

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ADM2013-02417

January 10, 2014

FILED
JAN 14 2014
Clerk of the Courts
Rec'd By _____

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 7th 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

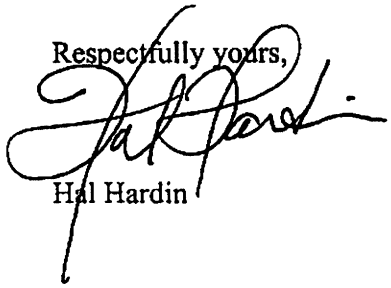
Dear Supreme Court Justices:

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.

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

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January 14, 2014

Mike Catalano, Clerk
Appellate Court Clerk's Office
100 Supreme Court Building
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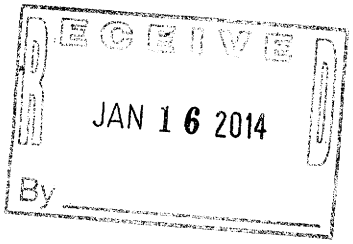

Re: Tennessee Supreme Court R.21
Docket #ADM2013-02417

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

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,

Peter K. Shea

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OF COUNSEL
LARRY W. LINDEEN

January 17, 2014

ADM2013-02417

Mike Catalano, Clerk
Appellate Court Clerk's Office
100 Supreme Court Building
401 7th 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.

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.

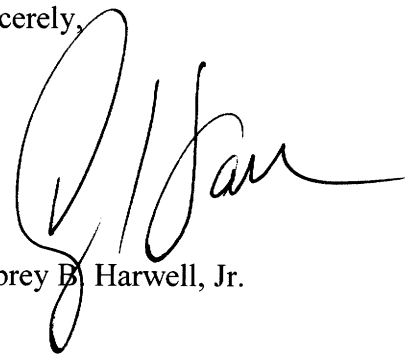
Simply put, if there are lawyers who have practiced 30+ years and need CLE, I assume they will take whatever courses they believe appropriate. On the other hand, if they practice in a given area where CLE would be of no benefit, to mandate that they take CLE is simply not well advised in my opinion.

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,



Aubrey B. Harwell, Jr.

ABHJr/lp

JAN 21 2014

LAW OFFICE

SPEER AND SPEER

HAROLD G. SPEER, JR.*
GRACE E. SPEER*

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*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 7th 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:

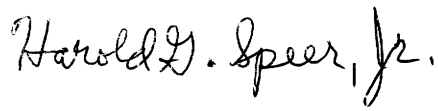
I strongly disagree with the recommendation to require five hours in a classroom setting or in other types of live, in-person CLE activity in Tennessee. My review of the Americanbar.org website shows that only six states require live, in-person annual CLE hours: DE (14), KS (14), MS (7), NJ (7), OH (13.25), 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.

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,



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,
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JAN 22 2014

January 21, 2014

Mike Catalano, Clerk
Re: Tenn. Sup. Ct. R. 21
Appellate Court Clerk's Office
100 Supreme Court Building
401 7th 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 28th). 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."

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

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RECEIVED
JAN 23 2014
By

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.

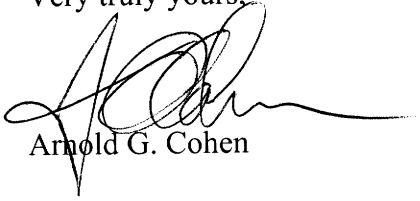
The transitional relief should excuse lawyers from all or a substantial portion of the required credits for the first year after which the proposed change becomes effective or give lawyers the option of being excused. An alternative would be to immediately give written notice to each and every lawyer 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,



Arnold G. Cohen

AGC/cms

AGC\Miscellaneous Corr/Catalano, Michael 001.012114