>>> "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

RECEIVED
NOV 25 2013
Clerk of the Courts
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.

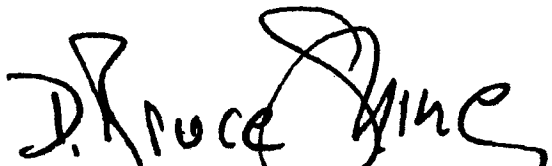
7. There is no rational reason nor does an objective academic study exist to support the proposition that attorneys over 65 would not benefit from the continuing legal education requirements inherent in the intent behind the adoption of Rule 21 in 1986.

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: 

D. BRUCE SHINE, ESQ.
TN BPR 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
LAW OFFICES
150 FOURTH AVENUE, NORTH
SUITE 2000
NASHVILLE, TENNESSEE 37219-2498

TELEPHONE
(615) 244-1713

FACSIMILE
(615) 726-0573

WWW.NEALHARWELL.COM

JAMES F. NEAL (1929-2010)

AUBREY B. HARWELL, JR.
JON D. ROSS
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
W. DAVID BRIDGERS
KENDRA E. SAMSON
DAVID G. THOMPSON
LISA PAIGE BINDER
ELIZABETH S. TIPPING

CHANDRA N.T. FLINT
STEPHEN M. MONTGOMERY
JEFF H. GIBSON
ROBERT A. PEAL
J. ISAAC SANDERS
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

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

Liberty Tower
605 Chestnut Street, Suite 1700
Chattanooga, TN 37450
(423) 756-3000
chamblisslaw.com

CHAMBLISS

CHAMBLISS, BAHNER & STOPHEL, P.C.

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

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

NEAL & HARWELL, PLC
LAW OFFICES
150 FOURTH AVENUE, NORTH
SUITE 2000
NASHVILLE, TENNESSEE 37219-2498

TELEPHONE
(615) 244-1713

FACSIMILE
(615) 726-0573

WWW.NEALHARWELL.COM

JAMES F. NEAL (1929-2010)

AUBREY B. HARWELL, JR.
JON D. ROSS
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
W. DAVID BRIDGERS
KENDRA E. SAMSON
DAVID G. THOMPSON
LISA PAIGE BINDER
ELIZABETH S. TIPPING

CHANDRA N.T. FLINT
STEPHEN M. MONTGOMERY
JEFF H. GIBSON
ROBERT A. PEAL
J. ISAAC SANDERS
JOHN E. HAUBENREICH
BLIND AKRAWI
CHANELLE A. JOHNSON
ANDREW A. WARTH

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

LAW OFFICES
BURCH, PORTER & JOHNSON
A PROFESSIONAL LIMITED LIABILITY COMPANY
130 NORTH COURT AVENUE
MEMPHIS, TENNESSEE 38103
TELEPHONE 901-524-5000
FAX 901-524-5024

Allen T. Malone
901-524-5157
Email: amalone@bpjlaw.com

RECEIVED
DEC - 2 2013
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

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

ADM2013-2417

RECEIVED
DEC 11 2013
Clerk of the Courts

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 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

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
TULLAHOMA, 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 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.

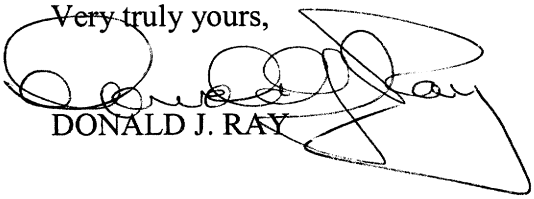
1. Perform some research on incremental license similar to the process young people go through to get a driver's license. For example, a limited license could be issued for an attorney who does not want any privileges of representing any client in Court. Although it's apparently not been studied, there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

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

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.

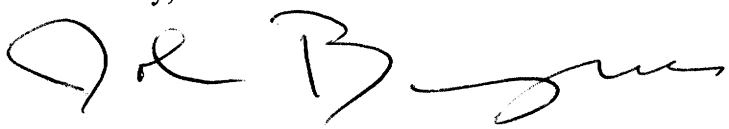
TCCLE's formal proposal in its Exhibit E cites the percentage of attorneys age 65 and older as of 8-22-2013—13.37%. But TCCLE's proposal document does not indicate what the percentage of attorneys age 65 and older has been each year throughout the history of mandatory CLE in Tennessee since its beginning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

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 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

LAW OFFICE

HAL HARDIN

211 UNION STREET, SUITE 200
NASHVILLE, TENNESSEE 37201

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

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

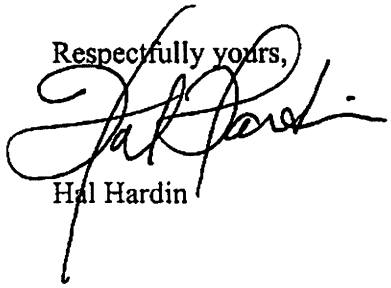
Dear Supreme Court Justices:

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

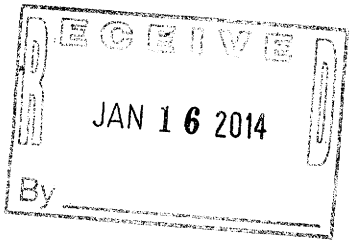
CARRIER AND HICKIE
ATTORNEYS AT LAW
206 PRINCETON ROAD - SUITE 44
JOHNSON CITY, TENNESSEE 37601

JACK R. CARRIER
MICHAEL J. HICKIE

TELEPHONE (423) 282-1881
FAX (423) 283-4173

January 14, 2014

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

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

NEAL & HARWELL, PLC
LAW OFFICES
150 FOURTH AVENUE, NORTH
SUITE 2000
NASHVILLE, TENNESSEE 37219-2498

TELEPHONE
(615) 244-1713

FACSIMILE
(615) 726-0573

WWW.NEALHARWELL.COM

JAMES F. NEAL (1929-2010)

AUBREY B. HARWELL, JR.
JON D. ROSS
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
W. DAVID BRIDGERS
KENDRA E. SAMSON
DAVID G. THOMPSON
LISA PAIGE BINDER
ELIZABETH S. TIPPING

CHANDRA N.T. FLINT
STEPHEN M. MONTGOMERY
JEFF H. GIBSON
ROBERT A. PEAL
J. ISAAC SANDERS
JOHN E. HAUBENREICH
BLIND AKRAWI
CHANELLE A. JOHNSON
ANDREW A. WARTH
L. WELLS TROMPETER

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.

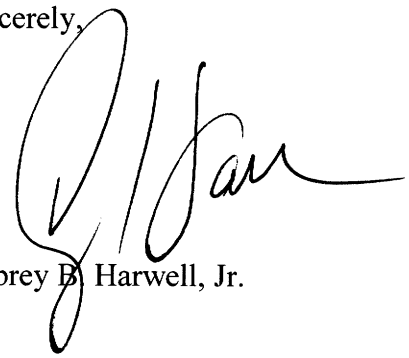
Simply put, if there are lawyers who have practiced 30+ years and need CLE, I assume they will take whatever courses they believe appropriate. On the other hand, if they practice in a given area where CLE would be of no benefit, to mandate that they take CLE is simply not well advised in my opinion.

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*

629 Lynah Ln
Beech Grove, TN 37018
(901) 827-1922
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 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:

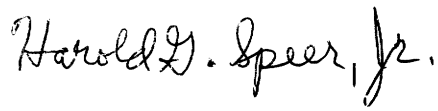
I strongly disagree with the recommendation to require five hours in a classroom setting or in other types of live, in-person CLE activity in Tennessee. My review of the Americanbar.org website shows that only six states require live, in-person annual CLE hours: DE (14), KS (14), MS (7), NJ (7), OH (13.25),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

P.O. Box 31742
Knoxville, Tennessee 37930
Phone & Fax: (865) 357-4300
scox@knology.net

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

DUNN, MacDONALD & REYNOLDS PC

6204 Baum Drive
Knoxville, Tennessee 37919

Telephone (865) 525-0505
Facsimile (865) 525-6001

Arnold G. Cohen

E-Mail
agc@dmrpclaw.com

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.

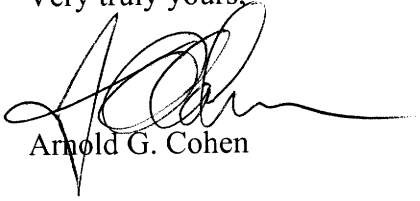
The transitional relief should excuse lawyers from all or a substantial portion of the required credits for the first year after which the proposed change becomes effective or give lawyers the option of being excused. An alternative would be to immediately give written notice to each and every lawyer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

HODGES DOUGHTY & CARSON
ATTORNEYS
Direct: (865) 292-2227
E-mail: Aharb@hdclaw.com

ROY L. AARON
DEAN B. FARMER
ALBERT J. HARB
EDWARD G. WHITE II
THOMAS H. DICKENSON
J. WILLIAM COLEY
J. MICHAEL HAYNES
T. KENAN SMITH
WAYNE A. KLINE
B. CHASE KIBLER
CHRISTOPHER D. HEAGERTY
KRISTI M. DAVIS
JOSHUA M. BALL
JOSHUA J. BOND
LISA J. HALL
KANDI R. YEAGER
E. MICHAEL BREZINA III
W. MICHAEL BAISLEY
OLIVER D. ADAMS
WESLEY D. STONE

ASSOCIATES
WILLIAM D. EDWARDS

SPECIAL COUNSEL
CHRISTOPHER A. HALL

OF COUNSEL
ROBERT R. CAMPBELL
JOHN W. WHEELER
DALTON L. TOWNSEND
DAVID N. WEDEKIND
JULIA S. HOWARD
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

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

JAN 31 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

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 24 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 SUPREME COURT RULE 21**	**)** **)**	**NO. ADM2013-02417**

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 30th 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.

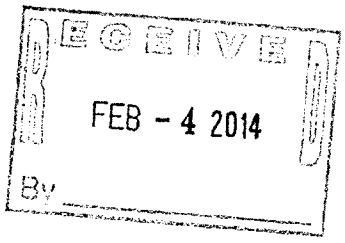
WITNESS my hand this 30th day of January, 2014.

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.

KENNERLY, MONTGOMERY & FINLEY, P.C.
550 MAIN STREET, FOURTH FLOOR | KNOXVILLE, TENNESSEE 37902
P.O. BOX 442 | KNOXVILLE, TENNESSEE 37901
PH (865) 546-7311 | FX (865) 524-1773 | WWW.KMFPC.COM

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,

William E. Mason
BPR # 001481

LAW OFFICES

SPEARS, MOORE, REBMAN & WILLIAMS

PROFESSIONAL CORPORATION

801 BROAD STREET

SIXTH FLOOR

P. O. BOX 1749

CHATTANOOGA, TENNESSEE 37401-1749

(423) 756-7000

FACSIMILE (423) 756-4801

www.SpearsMoore.com

THOMAS S. KALE
SCOTT N. BROWN, JR.
W. FERBER TRACY
FRED H. MOORE
DAVID C. BURGER
G. MICHAEL LUHOWIAK
ROY C. MADDOX, JR.
RALPH E. TALLANT, JR.
MARK A. RAMSEY
TERRY A. CAVETT
ARTHUR P. BROCK
LANE C. AVERY
RANDY CHENNAULT
JOSEPH R. WHITE
HOWELL DEAN CLEMENTS
CARL EUGENE SHILES, JR.
JOHN B. BENNETT
SHAREL VANSANDT HOOPER
ROBIN L. MILLER
SUE ELLEN SCRUGGS
DANIEL M. STEFANIUK
JAMES H. PAYNE
TIMOTHY J. MILLIRONS
JENNIFER KENT EXUM
BRIE ALLAMAN STEWART
WILLIAM J. RIEDER
ANNA MARIE DAVENPORT
CARA E. WEINER
LESLIE T. FOSTER
DREW H. REYNOLDS
CASSIE COOPER RIEDER
KURT A. SCHMISSRAUTER, JR.

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. (1931-2006)
SILAS WILLIAMS, JR. (1923-2011)

RETIRED:
E. BLAKE MOORE
JAMES W. GENTRY, JR.
L. HALE HAMILTON
ROBERT J. BOEHM

January 31, 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

FEB - 6 2014

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)

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,

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

Thomas S. Kale

Scott N. Brown, Jr.

W. Ferber Tracy by [illegible] with permission

W. Ferber Tracy

Fred H. Moore

Fred H. Moore

David C. Burger

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

344343.docx