

M2007-01982-SC-KL1-RL

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October 19, 2007

Michael W. Catalano, Clerk  
100 Supreme Court Building  
401 Seventh Avenue North  
Nashville, TN 37219-1407

**Re: Proposed amendment to Rule 21**

Dear Mr. Catalano:

The proposed amendment is not a good idea. While I realize the CLE industry sees benefits in using ever cheaper methods to permit attorneys to fulfill their requirements, that really is the only benefit. Computer based CLE is cheap for the provider and convenient for the user, it is not as effective as in person education. As or more importantly, CLE classes are one of the few remaining opportunities for lawyers to get together in person with others they do not usually see. While the perception is anecdotal, I really do think the perceived decline in attorney civility is directly related to the decreased in person contact lawyers have with one another. We don't congregate at the courthouse because the system is designed to settle everything. We don't socialize (what Judge Thomas Aquinas Higgins refers to as "taking a little whiskey together") very much because we are in such a hurry to do, well, I am not sure what, but we are in a hurry to do it. We don't even talk on the phone anymore because we all use email.

At the risk of being perceived as a Luddite, I submit that, if anything, the amount of on line CLE should be decreased.

Very truly yours,

CONSTANGY, BROOK & SMITH

William A. Blue, Jr.

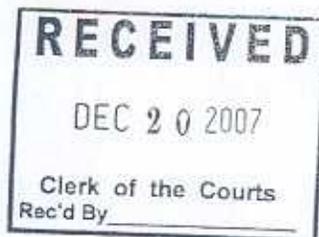
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Knoxville  
Bar  
Association

December 18, 2007



VIA E-MAIL & U.S. MAIL

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

**Re: Opposition to Amending Tennessee Supreme Court Rule 21, Section 4.08**

Dear Mr. Catalano:

Pursuant to the Tennessee Supreme Court's Order soliciting comments on the Proposed Amended Rule 21, the Knoxville Bar Association submitted the Proposed Amended Rule to its Continuing Legal Education Committee for review. I have attached a copy of the Committee's recommendation which was adopted by the KBA Board of Governors at its meeting on August 15, 2007. The Board met again on November 28, 2007 and asked that I send the Memorandum to the Supreme Court for their consideration.

The Knoxville Bar Association respectfully submits the attached comments for the Supreme Court's consideration. As always, we appreciate the opportunity to comment on proposed changes to the rules promulgated by the Tennessee Supreme Court.

With kind regards,

Sincerely yours,

Ruth T. Ellis, President  
Knoxville Bar Association

Ruth T. Ellis  
President

Adrienne L. Anderson  
President-Elect

Thomas R. Ramsey III  
Treasurer

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GENERAL COUNSEL

Lawrence P. Leibowitz



## MEMORANDUM

**To:** Knoxville Bar Association Board of Governors

**From:** Susan P. Herndon, Co-Chair, Knoxville Bar Association CLE Committee

Amanda M. Busby, Co-Chair, Knoxville Bar Association CLE Committee

**Re:** Opposition to the amendment of Tennessee Supreme Court Rule 21, Section 4.08 to remove the mandatory CLE cap on "distance learning" credit as well as any alternative amendment which would increase the distance learning cap

**Date:** August 14, 2007

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The Tennessee Commission on Continuing Legal Education and Specialization ("Commission") has requested input from the Knoxville Bar Association, before the Commission's next meeting on August 21, 2007, on the issue of whether to recommend that the Tennessee Supreme Court amend Rule 21, Section 4.08 to increase or eliminate the "cap" on the number of "distance learning" credit hours that can be applied to meet annual mandatory continuing legal education ("MCLE") requirements (*See* E-mail from David Shearon with attached Commission document). Supreme Court Rule 21, Section 4.08 currently provides that "[a] maximum of six (6) hours of credit per year earned in a distance learning format may be applied to the annual requirements" (*emphasis added*). The Commission is reviewing the Rule's distance learning cap and has indicated a predisposition to increase or eliminate it.

After meeting to consider this matter, the Knoxville Bar Association Continuing Legal Education Committee ("CLE Committee") voted to recommend to the Board of Governors that the Knoxville Bar Association register its opposition with the Commission to any proposal to amend Supreme Court Rule 21, Section 4.08 to eliminate the distance learning CLE cap as well as any alternative amendment which would increase the distance learning cap above the existing six (6) hours per year.

If the primary role of MCLE is to promote competence, then it is important to keep in mind the various functions of an attorney when considering whether distance learning provides the same educational benefits as live CLE seminars. The Preamble of Tennessee Supreme Court Rule 8 provides several insights into a lawyer's role: "A lawyer is an expert in law pursuing a learned art in service to clients and in the spirit of public service and engaging in these pursuits as part of a common calling to promote justice and public good" (Preamble [1]). "As a representative of clients, a lawyer performs various functions. . . . advisor, . . . advocate, . . . negotiator, . . . intermediary, . . . evaluator . . . ." (Preamble [3]) "In all professional functions a lawyer should be competent, . . ." (Preamble [4]). "A lawyer's conduct should conform to the requirements of the law, both in professional service to clients and in the lawyer's business and personal affairs. . . . A lawyer should demonstrate respect for the legal system and for those who serve it, including judges, other lawyers, and public officials. . . ." (Preamble [5]).

The Knoxville Bar Association has a long history as a successful provider of high quality CLE programs utilizing various live and distance learning formats. Throughout this process, the Association has consistently sought and received feed-back from program participants as part of the CLE planning process to ensure a quality learning experience. Based upon this history, the CLE Committee believes that numerous factors weigh heavily in favor of keeping the distance learning cap at the existing six (6) hours.

In terms of positive effects on learning, live programs offer a better, more immediate, and responsive forum for question-and-answer sessions during a seminar, a factor that greatly enhances the quality of the learning experience. During live programs there is more give-and-take and often other experts who are attending the program share new insights to add to those of program presenters. Many distance learning programs do not offer any question-and-answer opportunities during the initial session.

Live programs also offer a forum that encourages and facilitates face-to-face dialogue between lawyers and the judiciary outside of the courtroom in a manner that cannot be duplicated by distance learning. Live programs are not only the best, but are often the only CLE forum to help teach competence in the area of local rules and practices. It is unlikely that large for-profit CLE providers would find enough financial incentive to offer such programs and it is unlikely that local non-profit providers would be in a position to afford providing such programs in a distance learning format.

Live programs offer a better and more realistic forum for trial practice demonstrations where a three-dimensional view is necessary to fully appreciate the skills demonstrated. Live programs offer the opportunity to touch and feel (and smell) demonstrative exemplars (such as weapons, bones, mechanical parts and products) in a manner that cannot be duplicated by technology.

Live programs offer a better and more realistic forum for client communication demonstrations where once again a three-dimensional view is necessary to fully appreciate the skills demonstrated. Competency in client service is an essential skill for lawyers.

Because distance learning courses are prepared in advance and are generally available for extended times, they are often not as timely as live programs. Distance learning programs often do not incorporate recent changes in the law. Live programs offer the most up-to-date format for enhanced learning and in the ever-changing legal field this is a crucial part of maintaining competence.

Live programs offer a forum that encourages and facilitates face-to-face dialogue between lawyers and other lawyers in a manner that cannot be duplicated by distance learning. A lawyer's duty of competence extends to his role as negotiator, intermediary and advocate, all of which require the ability to effectively communicate with others lawyers face-to-face. Such "people

skills" are better learned in live programs rather than through distance learning formats. This is more than simply the positive effect of collegiality on learning; it is a matter of competence and professionalism in areas that are essential to the underlying roles of attorneys. This also facilitates mentoring within the profession, which promotes competence.

Practicing lawyers have little spare time and many only attend the minimum required number of MCLE courses each year. It is the experience of the Knoxville Bar Association as a CLE provider that most distance learning courses are taken at the end of the year, during the holiday season, under the pressure of a deadline at a time when the quality of learning would be adversely impacted by the various pressures and many times the courses taken do not even correspond with the actual practice areas of the attorneys. Under these circumstances, removal of the distance learning cap would not serve to better promote competence.

The effect on the marketplace of removing the cap on distance learning would appear to favor large for-profit CLE providers with more resources over small non-profit CLE providers. For the Knoxville Bar Association, increases in the use of distance learning programs accompanied by decreases in attendance for live programming would have an adverse impact on the Knoxville Bar Association's CLE budget.

The attached document entitled "Weighing the Arguments on Removing the Distance Learning Cap" lists the "Effect on the Complexity of Compliance" as an argument supporting the removal of the cap on distance learning. However, the CLE Committee did not understand how removing the cap on distance learning in order to reduce the "Complexity of Compliance" would promote attorney competence (the goal of continuing legal education). If there are questions as to the definition of which courses qualify as "distance learning" CLE, then it would appear that the answer would be for the Commission to revise the rules to be more specific and/or to better inform providers and attorneys of the rules.

The Knoxville Bar Association has offered Online CLE programs since 2001 and the CLE Committee supports the inclusion of distance learning courses as an important option for meeting a portion of the MCLE requirements. However, live CLE programs offer many benefits that cannot be duplicated by distance learning. The CLE Committee believes that live seminars offer significant advantages over distance learning courses in helping attorneys maintain and improve their expertise in the law as they fulfill their various roles as advisors, advocates, negotiators, intermediaries and evaluators while pursuing the learned art of law in the service of clients and the public good. Thus, the CLE Committee submits that a combination of live and distance learning MCLE (with a preference for live programs) would best serve to promote over-all attorney competence.

Accordingly, the CLE Committee recommends that the Knoxville Bar Association register an objection with the Commission to any proposal that would eliminate the distance learning MCLE cap or raise the distance learning MCLE cap above the existing six (6) hours per year. Please let me know if you need any further information from the CLE Committee regarding this recommendation.

# Weighing the Arguments on Removing the Distance Learning Cap

The Tennessee Commission on Continuing Legal Education and Specialization began testing distance learning as a component of our MCLE program in 1996. In 1999 we recommended a rule change to the Supreme Court to make permanent a provision allowing distance learning for MCLE compliance. A 1999 report on attorney reactions to distance learning described support for the program as “overwhelming”, and that support remains strong today.



In a recent survey of Tennessee attorneys who had participated in distance learning within the last year, 97% of the respondents said their distance learning experiences were as good as or better than traditional, site-based CLE programs. This result is consistent with the expanded role distance learning has assumed in recent years in all realms of education.

In our original, experimental period, only four hours of distance learning was allowed. With the permanent rule change in 1999, that amount was increased to six hours per year. Today, it is time to

consider whether that limit should be removed entirely.



In an effort to make a decision based on data, the Commission has investigated the positions and experience of other mandatory states and conducted surveys of Tennessee attorneys, both those who have participated in distance learning activities and those who have stuck to traditional, site-based programs exclusively. As already mentioned, 97% of Tennessee attorneys responding to our survey indicated their distance learning experiences were as good as or better than traditional, site-based CLE programs. 88% said the number of hours allowed through distance learning should be increased, and more than half (52%) said the cap on distance learning credits should be removed completely.

What about attorneys who have not participated in distance learning activities? What would they say? Again, we conducted a survey. Over 400 attorneys responded who had never participated in distance learning activities. When asked what factor the Commission should weigh

most heavily in deciding whether to raise or remove the cap, the top choice out of five choices was “How attorneys who have participated in distance learning programs rate them compared to traditional CLE programs” at 43%. Even without knowing the extremely positive rating participants give distance learning CLE, 49% of the non-participating attorneys thought the cap should be raised or removed.

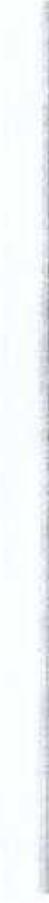
The next two pages of this paper show the graphical results of key questions from the surveys of participants and of non-participants. After that is a table that lists, weighs, and analyzes the arguments for and against removing the cap.

On balance and after due consideration, the Commission recommends that Supreme Court amend Rule 21, §4.08 as follows:



**4.08** A maximum of [to be determined] hours of credit per year earned in a distance learning format approved by the Commission pursuant to section 5.01(f) may be applied to the annual requirements.

## Attorneys who have participated in distance learning CLE:

On the whole, how have distance learning activities been for you as a learning experience?		Response Percent	Response Count
Better than traditional, site-based CLE		37.2%	484
About the same as traditional, site-based CLE		59.3%	772
Worse than traditional, site-based CLE		3.5%	46
<i>answered question</i>			1302

Do you think the Commission should petition the Supreme Court to increase the current 6-hour cap on distance learning credits?		Response Percent	Response Count
Yes, the cap should be increased to the full 15-hour requirement		52.3%	680
Yes, the cap should be increased, but not all the way to 15 hours		33.4%	434
No, the cap should remain where it is		13.4%	174
No, the cap should be lower than 6 hours		0.9%	11
No, distance learning credits should not be accepted for CLE compliance		0.1%	1
<i>answered question</i>			1300

## Attorneys who have NOT participated in distance learning CLE:

Do you think the Commission should petition the Supreme Court to increase the current 6-hour cap on distance learning credits?		
	Response Percent	Response Count
Yes, the cap should be increased to the full 15-hour requirement	26.8%	111
Yes, the cap should be increased, but not all the way to 15 hours	22.2%	92
No, the cap should remain where it is	44.3%	184
No, the cap should be lower than 6 hours	3.6%	15
No, distance learning credits should not be accepted for CLE compliance	3.1%	13
		<b>answered question</b>
		<b>415</b>

If Tennessee's MCLE Rule were changed to allow you to earn all your CLE requirements through distance learning, how would this affect your participation in distance learning programs?		
	Response Percent	Response Count
I do not think a change in the cap on distance learning credits would affect my behavior substantially	68.5%	293
I would be much more likely to participate in distance learning programs	12.2%	52
I would be somewhat more likely to participate in distance learning programs	19.4%	83
		<b>answered question</b>
		<b>428</b>

# Table of Arguments and Analysis

Effect on Learning	
Pro Arguments	Con Arguments
<p><b>Pro Analysis</b></p>  <p>This analysis assumes most lawyers are interested in maintaining competence and use CLE to that end. This assumption is supported by our survey findings over the years of the extent to which Tennessee attorneys approve the MCLE program. In addition, the Tennessee Bar Association surveys of the reasons why lawyers choose certain CLE programs indicate that content is the dominant consideration.</p> <p>We can also improve the learning effect of DL programs by providing a mechanism for attorneys to rate such programs.</p>	<p><b>Con Analysis</b></p>  <p>Any temptation of lawyers to "multi-task" can be minimized by working with providers to improve and increase interactivity components.</p> <p>Many live programs do not include question and answer sessions. Further, telephone conference programs and webcasts can include Q&amp;A. Some online programs use email questions or bulletin boards.</p> <p>Finally, a component of the learning through interchange with other lawyers is now supplied by listservs, etc.</p>
<p>Lawyers can attend highly specialized programs that are not available in TN.</p> <p>On deadline, lawyers can participate in DL programs relevant to their practice rather than attend whatever site-based program is available.</p> <p>Because DL programs are prepared in advance and available for extended times, they can be more carefully designed and implemented to achieve learning objectives.</p>	<p>Lawyers will not pay attention, will work on other things, and will not truly be engaged with the programs.</p> <p>Lawyers learn from conversations and from question and answers with presenters.</p>

<p><b>Pro Analysis</b></p>	<p><b>Effect on Collegiality</b></p> <table border="1" data-bbox="321 737 597 1413"> <tr> <td data-bbox="321 1073 597 1413"> <p>Pro Arguments</p> </td> <td data-bbox="321 737 597 1073"> <p>Con Arguments</p> <p>Attorneys who are participating in DL are not interacting with other attorneys in ways that promote collegiality.</p> </td> </tr> </table>	<p>Pro Arguments</p>	<p>Con Arguments</p> <p>Attorneys who are participating in DL are not interacting with other attorneys in ways that promote collegiality.</p>	<p><b>Con Analysis</b></p>  <p>First, the primary objective of CLE is to increase attorney competence. Collegiality is a benefit, and perhaps promotes competence, but it is secondary and collateral.</p> <p>Second, removing the distance learning cap would likely have a minimal effect on collegiality. The best indication we have, both from our surveys and from states that allow total DL compliance, is that a large majority of attorneys would still get a significant portion of their CLE credits at traditional, site-based seminars.</p>
<p>Pro Arguments</p>	<p>Con Arguments</p> <p>Attorneys who are participating in DL are not interacting with other attorneys in ways that promote collegiality.</p>			

<p><b>Pro Analysis</b></p>  <p>Very substantial support for this consideration in the survey results.</p>	<p><b>Effect on Attorneys</b></p>		<p><b>Con Analysis</b></p>
	<p>Pro Arguments</p>	<p>Con Arguments</p>	
	<p>Allows greater choice in meeting CLE requirements.</p>	<p>Very beneficial for common practice areas and rural attorneys.</p>	
	<p>Reduces direct and indirect costs of CLE compliance.</p>		

<p><b>Pro Analysis</b></p> 	<p><b>Effect on the Marketplace</b></p> <table border="1"> <tr> <td data-bbox="277 1073 967 1415"> <p><b>Pro Arguments</b></p> <p>Our experience over the last 10 years has given in-state providers a chance to adjust.</p> <p>Increased competition should result in higher quality programs.</p> <p>Increased demand for DL programs could promote superior design and implementation by providers.</p> </td> <td data-bbox="277 741 967 1073"> <p><b>Con Arguments</b></p> <p>Removing attorneys from the market for live programs will reduce the resources providers put into those programs and increase costs.</p> </td> </tr> </table>		<p><b>Pro Arguments</b></p> <p>Our experience over the last 10 years has given in-state providers a chance to adjust.</p> <p>Increased competition should result in higher quality programs.</p> <p>Increased demand for DL programs could promote superior design and implementation by providers.</p>	<p><b>Con Arguments</b></p> <p>Removing attorneys from the market for live programs will reduce the resources providers put into those programs and increase costs.</p>
<p><b>Pro Arguments</b></p> <p>Our experience over the last 10 years has given in-state providers a chance to adjust.</p> <p>Increased competition should result in higher quality programs.</p> <p>Increased demand for DL programs could promote superior design and implementation by providers.</p>	<p><b>Con Arguments</b></p> <p>Removing attorneys from the market for live programs will reduce the resources providers put into those programs and increase costs.</p>			
<p><b>Con Analysis</b></p>  <p>No suggestion in our experience thus far or in the experience of states that allow total DL compliance that this effect is even measurable, much less substantial.</p>				

<p><b>Pro Analysis</b></p> 	<p><b>Effect on the Complexity of Compliance</b></p> <p><b>Pro Arguments</b></p> <p>Eliminates an entire tracking component, thereby substantially simplifying compliance logic and reducing systems design and maintenance costs.</p> <p>Reduces demands on attorneys to understand detailed requirements.</p> <p>Eliminates need for sponsors to communicate to attorneys about a DL limit.</p> <p>K.I.S.S.</p>	<p><b>Con Analysis</b></p>
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# Overall Analysis of Arguments Pro and Con for Removing the Cap on Distance Learning Credits

<b>PRO</b>	<b>Con</b>
 <p>Effect on Learning</p>	 <p>Effect on Learning</p>
 <p>Effect on Attorneys</p>	 <p>Effect on Collegiality</p>
 <p>Effect on the Marketplace</p>	 <p>Effect on the Marketplace</p>
 <p>Effect on the Complexity of Compliance</p>	



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RECEIVED

DEC 20 2007

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

December 20, 2007

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

IN RE: PROPOSED AMENDED RULE 21,  
SECTION 4.08, RULES OF THE  
TENNESSEE SUPREME COURT

Dear Mike:

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

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

Very truly yours,

Allan F. Ramsaur  
Executive Director

cc: Marcia M. Eason, President, Tennessee Bar Association  
William L. Harbison, General Counsel  
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IN THE SUPREME COURT OF TENNESSEE  
AT NASHVILLE

IN RE: PROPOSED AMENDED )  
RULE 21, SECTION 4.08, RULES ) M2007-01982-SC-RL1-RL  
OF THE TENNESSEE SUPREME )  
COURT )  
)

**COMMENT BY THE TENNESSEE BAR ASSOCIATION**

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The Tennessee Bar Association by and through its President, Marcia M. Eason; General Counsel, William L. Harbison; and, Executive Director, Allan F. Ramsaur, supports the proposed amended Rule 21 Section, 4.08, to increase the number of distance learning hours from six (6) to eight (8) which may be earned for mandatory continuing legal education requirements.

**BACKGROUND**

During the spring and summer of 2007 the Tennessee Bar Association began a review of ways in which the association could enhance its programs for meeting the continuing legal education needs of its members. Proceeding on

a parallel track, the Tennessee Commission on Continuing Legal Education and Specialization undertook a review of distance learning and distance learning requirements. As represented by the petition before this Court, the Commission recommends that the number of hours which may be credited to mandatory continuing legal education compliance annually through distance learning programs be raised from its current amount of 6 hours, to 8 hours. The TBA supports this recommendation.

**1. COMPLIANCE COSTS FOR MANDATORY CLE CAN BE REDUCED OR CONTROLLED BY ADOPTION OF THE PROPOSED AMENDMENT.**

Beginning in 1986 with the TBA's petition to this Court for the creation of the CLE program, the TBA has supported mandatory continuing legal education for all Tennessee lawyers. In doing so, the TBA recognizes that the cost of complying with CLE programs for lawyers can be substantial. To ensure that lawyers are better-educated and better able to assist their clients, however, the TBA believes the cost for CLE is necessary. Distance learning activities offer the opportunity for attorneys to control that cost.

The highly competitive CLE market in Tennessee has kept the price for attendance at continuing legal education programs at a very reasonable level.

A recent analysis shows the average price per hour for continuing legal education in Tennessee is about \$40. However, prices for CLE vary widely from provider to provider, and sometimes from legal specialty to legal specialty.

This Court recently adopted the number one recommendation of its Blue Ribbon Commission for the Tennessee Commission on Continuing Legal Education and Specialization to fund resources to expand webcasting distance learning capabilities of the TBA and the four major metropolitan bars to make even more distance learning available throughout Tennessee. Lawyers participating in *pro bono* programs will be able to obtain continuing education at no charge from the Tennessee Association of Legal Services under the program. Adoption of the proposed amendment will allow lawyers and providers to maximize the benefit of this new capability.

In reality, the fee charged for continuing legal education does not signify the real cost to lawyers. The much greater cost is the time away from client matters to attend a live program. The two hours that a Dyersburg lawyer must drive to Memphis or the three hours commute to Nashville, for him or her to participate in live programming is much more costly than the total

price of a program. Even a lawyer in a metropolitan area who attends a one-hour program at lunchtime spends transaction time walking to and from the program. These transaction costs are suffered by lawyers seeking to comply with the mandatory continuing legal education requirement. Driving down these costs by making more hours available through distance learning activities leads to lower compliance costs for CLE program participants.

## **2. INCREASED DISTANCE LEARNING ACTIVITY HOURS ENHANCES THE "JUST-IN-TIME" EFFECT OF SUCH PROGRAMS.**

One of the often overlooked benefits of distance learning is that the programs are readily accessible when needed, not only at the time the provider can produce a live program. One of the major advantages to distance learning activity is its constant availability.

An example here might help to illustrate the "just-in-time" effect. Mary Jones, a lawyer with five years experience, has a solo practice in a strip mall in suburban Knoxville. Mary began her practice as an assistant district attorney trying DUI cases. After moving to private practice, she has not been retained to represent someone in a DUI case. Pat Jones, an estate planning client of Mary's, asks Mary to represent her son in a DUI. Since it

has been more than a year since Mary has handled a DUI, she feels a little "rusty." There was a CLE program just last week on new developments in DUI, but Mary did not attend. Fortunately, the program was archived and is now available "just-in-time" for Mary's needs. With distance learning, Mary can spend an hour or two online refreshing her knowledge to assist her client.

### **3. INCREASING THE NUMBER OF HOURS WHICH CAN BE EARNED THROUGH DISTANCE LEARNING MAKES MANDATORY CLE COMPLIANCE MORE CONVENIENT.**

Lawyers who take distance courses cite convenience as a major advantage. Every lawyer has had the experience of extensive preparation for a matter going to trial, or a transaction scheduled to close, only to see the matter settle or the transaction postponed. The time dedicated to an event that did not take place as scheduled can be devoted to a continuing legal education program. At present, the lawyer who has taken the maximum six (6) distance learning hours must choose from live courses available, and take that course whether or not it is relevant to his or her practice. With the increase in the number of distance hours, the lawyer can take advantage of

that time wisely to navigate through an advanced course in a chosen practice area.

Another important convenience in the distance learning activities is that its availability allows lawyers to control for unavoidable conflicts. The lawyer no longer has to choose between the live, on-site program and an unexpected legal demand from a client, or an important personal matter such as a child's birthday party. A lawyer no longer has to miss an on-site program to take his or her mother to the hospital unexpectedly. The lawyer can choose to take a course through distance learning, and attend to other duties.

#### **4. QUALITY CLE PROGRAMS AVAILABLE FOR COMPLIANCE THROUGH DISTANCE LEARNING WILL INCREASE THE BENEFIT TO LAWYERS.**

As part of its examination of continuing legal education programs, the TBA reviewed attendees' evaluations of TBA CLE programs. The TBA compared results of CLE evaluation of on-site programs, classic or text-based online courses, and online video courses. Evaluations by those taking on-site TBA courses and online programs, rated both activities as having equally high quality.

These findings are consistent with the findings of the survey conducted by the Tennessee Commission on Continuing Legal Education and Specialization; 96.5% of lawyers surveyed responded that the quality of distance learning is better than or the same as site-based programming.

With the availability of resources increasing through this Court's adoption of the Blue Ribbon Commission recommendation for funding, more resources can be devoted to continued development of quality distance learning programming with less costs for production.

### CONCLUSION

The TBA recommends adoption of the increase in the amount of hours to be earned through distance learning activities from the six (6) hours to eight (8) hours as proposed by the Tennessee Commission on Continuing Legal Education and Specialization. The proposed amendment assists in reducing and controlling compliance costs for lawyers, makes more legal education available when it is needed, and makes quality continuing legal education more accessible.

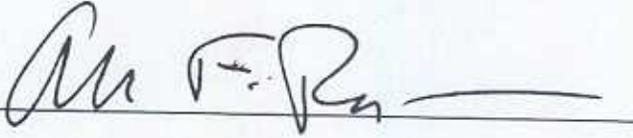
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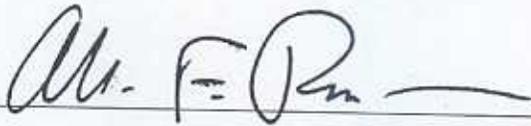
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The undersigned certifies that a true and correct copy of the foregoing has been served upon the individuals and organizations identified in Exhibit "A" by regular U.S. Mail, postage prepaid on December 20, 2007.



A handwritten signature in black ink, appearing to read "Allan F. Ramsaur", is written over a horizontal line.

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