

**IN THE SUPREME COURT OF TENNESSEE  
AT NASHVILLE**

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APPELLATE COURT CLERK  
NASHVILLE

**IN RE: AMENDMENT OF RULE 7, SECTION 7.01,  
RULES OF THE TENNESSEE SUPREME COURT**

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**No. ADM2017-00785**

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**COMMENT OF THE TENNESSEE BAR ASSOCIATION**

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The Tennessee Bar Association (“TBA”), by and through its President, Lucian T. Pera; President-Elect, Jason Pannu; General Counsel, Edward Lanquist; Executive Director, Joycelyn A. Stevenson; and Executive Director Emeritus, Allan F. Ramsaur, files this comment in support of the adoption of the rule amendment characterized by Petitioners as the “hybrid” approach to authorizing foreign-educated applicants to sit for the Tennessee bar exam and to be licensed in Tennessee.

**BACKGROUND**

Petitioners the University of Tennessee and Vanderbilt University filed their Petition on April 21, 2017, urging that the Court amend Tenn. Ct. R. 7, § 7.01. The Petition urged the Court to make changes to its rule which were adopted effective January 1, 2016 making it more difficult or uncertain for foreign-educated applicants to sit for the Tennessee bar exam.

As part of a comprehensive rewrite of Tenn. Sup. Ct R. 7, the Board of Law Examiners recommended that § 7.01 of the Rule be modified. When these amendments were being considered, the TBA took interest in certain provisions to the rule, but made no comments relative to the change adopted with respect to the foreign-educated lawyers other than to expressing that the TBA “generally supports the goals of the proposal.”

In the 2014-2015 bar year, the TBA did undertake a review of several possible changes to Tennessee practice and ethics rules and statutes with respect to foreign-licensed lawyers. The recommendations of the Special Committee on Law Practice by Foreign Lawyers were adopted by the TBA Board of Governors at its June 2015 meeting. Among the issues considered was whether the TBA should support an amendment to Tenn. Sup. Ct. R. 7, Article V, permitting comity admission for foreign-licensed lawyers. The report recommended that the TBA not support such a change and noted that a recent membership survey suggests that TBA members would oppose such a proposal by margin of 79% to 9%.

More recently, upon consideration of the present Petition with this Court by the University of Tennessee and Vanderbilt University, the TBA Executive Committee examined once again this issue, with special consideration of the views of the Petitioner law schools, and decided to express support of the hybrid

approach which uses either practice or educational criteria as prerequisites for foreign- educated lawyers to sit for the bar exam.

**THE PROPOSED HYBRID APPROACH FULLY AND FAIRLY  
ADDRESSES THE PUBLIC AND CLIENT PROTECTION GOAL OF  
REQUIRING THAT A LAWYER SEEKING ADMISSION TO THE BAR  
DEMONSTRATE COMPETENCE.**

The proposal by the Petitioners uses practice-focused and educational-focused criteria as qualifiers for sitting for the bar exam. This approach is in keeping with a now more than 20-year history of the TBA encouraging the Court to be more open in granting privileges to practice while focusing on protection of the public and clients in adoption of its practice and procedure rules. This includes adoption of a more open *pro hac vice* rule in Tenn. Sup. Ct. R. 19 rejecting a requirement of equal reciprocal treatment by other jurisdictions, multi-jurisdictional practice rules in Tenn. Sup. R. 8, RPC 5.5 permitting temporary practice in Tennessee by licensed U.S. lawyers, special authorization to practice by registered in-house counsel in Tenn. Sup. Ct. R. 7, § 10.01 through a registration process less onerous than full admission to practice, and permission for practice pending admission pursuant to several sections of Tenn. Sup. Ct. R. 7.

The TBA agrees with the Petitioners that the hybrid approach recommended in Section III.A. (pp. 11-12) of the Petition accomplishes this purpose without

compromising the public interest in maintaining competent and ethical standards for lawyers licensed to practice in Tennessee.<sup>1</sup>

The TBA therefore recommends that this Court amend Tenn. Sup. Ct. R. 7, § 7.01, in the manner described by the Petitioners as the “hybrid” approach. Further, the TBA also recommends adoption of any necessary amendments to Rule 7 to ensure that current LL.M. students and recent graduates, including any with applications pending before the Board of Law examiners, be subject to the amended Rule.

Respectfully Submitted,

By: /s/ by permission  
LUCIAN T. PERA (011641)  
President, Tennessee Bar Association  
Adams and Reese LLP  
Crescent Center  
6075 Poplar Avenue, Suite 700  
Memphis, TN 38119-0100  
(901) 524-5278

By: /s/ by permission  
JASON PANNU (023816)  
President-Elect, Tennessee Bar Association  
Lewis Thomason  
P.O. Box 198615  
Nashville, TN 37219  
(615) 259-1366

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<sup>1</sup> Should the Court choose not to adopt the hybrid approach proposed by the Petitioners, the TBA nevertheless strongly supports adoption of an amendment to § 7.01(a) to more freely allow adequately prepared foreign-educated lawyers to sit for the Tennessee bar exam.

By: /s/ by permission  
EDWARD D. LANQUIST (13303)  
General Counsel,  
Tennessee Bar Association  
Patterson PC  
1600 Division Street, Suite 500  
Nashville, TN 37203  
(615) 242-2400

By: Joycelyn A. Stevenson  
JOYCELYN A. STEVENSON (021710)  
Executive Director,  
Tennessee Bar Association  
Tennessee Bar Center  
221 Fourth Avenue North, Suite 400  
Nashville, TN 37219-2198  
(615) 383-7421

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

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing has been served upon the individuals and organizations identified in Exhibit A by regular U.S. Mail, postage prepaid within seven days of filing with the Court.

Allan F. Ramsaur  
Allan F. Ramsaur

## Exhibit A

Dwight Aarons  
President, National Bar Association,  
William Henry Hastie Chapter  
University of Tennessee College of Law  
1505 Cumberland Avenue, Room 363  
Knoxville, TN 37996-0681

Douglas Bates  
President, Hickman County Bar  
Association  
Bates & Bates  
P.O. Box 1  
Centerville, TN 37033

Jason Long  
Tennessee Bar Assoc. Immediate Past Pres.  
Lowe, Yeager & Brown  
900 S. Gay Street, Suite 2102  
Knoxville, TN 37902-1810

Mark Blakley  
President, Scott County Bar Association  
District Public Defender's Office  
2792 Baker Highway; P.O. Box 310  
Huntsville, TN 37756

Ben Boston  
President, Lawrence County Bar Assoc.  
Boston, Holt, Sockwell & Durham PLLC  
P.O. Box 357  
Lawrenceburg, TN 38464

Thomas Greer  
President, Tennessee Trial Lawyers Assoc.  
Bailey & Greer, PLLC  
6256 Poplar Avenue  
Memphis, TN 38119

William Cockett  
Johnson County Bar Association President  
Smith & Cockett Attorneys  
247 West Main Street, P.O. Box 108  
Mountain City, TN 37683-0108

Heather Knott  
Rutherford-Cannon County Bar Association  
Pate & Knott  
104 North Church Street  
Murfreesboro, TN 37130-3636

Felisa Cox  
President, National Bar Association  
Memphis City Attorney's Office  
4503 Pinegate Drive  
Memphis, TN 38125

Lee Davis  
President-Elect, Chattanooga  
Bar Association  
850 Fortwood Street  
Chattanooga, TN 37403-2312

Alyssa Minge  
President, ETLAW  
Leitner, Williams, Dooley & Napolitan  
900 S. Gay Street, Suite 1800  
Knoxville, TN 37902-1864

Barri Bernstein  
Executive Director  
Tennessee Bar Foundation  
618 Church Street, Suite 120  
Nashville, TN 37219

Laurel Farrell  
Washington County Bar Association Pres.  
Sisters at Law  
249 E. Main Street  
Johnson City, TN 37604-5707

Keith Burroughs  
President-Elect, Knoxville Bar Association  
Egerton, McFee, Armistead & Davis  
900 S. Gay Street, 14<sup>th</sup> Floor  
Knoxville, TN 37902

Charles Brasfield  
President, Tipton County Bar Association  
Brasfield & Brasfield  
114 West Liberty Avenue, P.O. Box 846  
Covington, TN 38019-0765

Amanda M. Busby  
President, Knoxville Bar Association  
Anderson Busby PLLC  
P.O. Box 2588  
Knoxville, TN 37901-2588

Curt Collins  
President, Greene County Bar Association  
C. Collins Law Firm  
128 S. Main Street, Suite 102  
Greeneville, TN 37743-4922

Bratten Cook  
President, Dekalb County Bar Association  
Bratten Hale Cook II  
104 N. 3rd Street  
Smithville, TN 37166

Terri Crider  
President, Gibson County Bar Association  
Flippin, Atkins & Crider PC  
P.O. Box 160  
Humboldt, TN 38343

Jason Davis  
President, Marshall County Bar Association  
Davis Law Firm  
101 1<sup>st</sup> Avenue North  
Lewisburg, TN 37091

Jeremy Ball  
President, Jefferson County Bar  
Association  
District Attorney Office  
P.O. Box 690  
Dandridge, TN 37725

Julian Bibb  
President  
Tennessee Board of Law Examiners  
Stites & Harbison, PLLC  
604 West Main Street  
Franklin, TN 37064

Tessa Lawson  
Putnam County Bar Association President  
410 East Spring Street, Suite H  
Cookeville, TN 38501-3495

Suanne Bone  
TN Assoc. of Criminal Defense Lawyers  
530 Church Street, # 300  
Nashville, TN 37219

Joseph Ozment  
President, TACDL  
Law Office of Joseph S. Ozment, P.C.  
212 Adams Avenue  
Memphis, TN 38103

Terry Brack  
President, Hamblen County Bar Assoc.  
Terry, Terry & Stapleton  
P.O. Box 724  
Morristown, TN 37815

Daryl Colson  
President, Overton County Bar Association  
Colson & Maxwell  
808 North Church Street  
Livingston, TN 38570-1134

Frederick McLean  
President, Paris-Henry County Bar Assoc.  
McLean & McLean PC  
206 W. Washington Street  
Paris, TN 38242

Creed Daniel  
President, Grainger County Bar Association  
Daniel & Daniel  
115 Marshall Avenue; P.O. Box 6  
Rutledge, TN 37861-0006

Michael Davis  
President, Morgan County Bar Assoc.  
216 N. Kingston Street  
P.O. Box 925  
Wartburg, TN 37887-0925

Dan Douglas  
President, Lauderdale County Bar  
Association  
P.O. Box 489  
Ripley, TN 38063-0489

Vinh Duong  
President, Tennessee Asian Pacific  
American Bar Association  
Waller Lansden Dortch & Davis LLP  
511 Union Street, #2700  
Nashville, TN 37210

Kelly Tollett  
President, Cumberland County Bar  
Association  
Fields & Tollett  
18 East Street  
Crossville, TN 38555

Andrew Frazier  
President, Benton County Bar Association  
Whitworth Law Firm  
P.O. Box 208  
Camden, TN 38320

David O'Neil  
Williamson County Bar Association  
President  
5211 Maryland Way  
Brentwood, TN 37027

James Gass  
President, Sevier County Bar Association  
Ogle, Gass & Richardson PC  
P.O. Box 5365  
Sevierville, TN 37864

Alberto Gonzales  
Dean  
Belmont University School of Law  
1900 Belmont Boulevard  
Nashville, TN 37212

David Stanifer  
President, Claiborne County Bar  
Association  
Stanifer & Stanifer  
P.O. Box 217  
Tazewell, TN 37879

Amy Kathleen Skelton  
Hawkins County Bar Association President  
Law Office of Mark A. Skelton  
121 South Depot Street  
Rogersville, TN 37857

Lynda Hood  
Executive Director  
Chattanooga Bar Association  
801 Broad Street  
Suite 420 Pioneer Building  
Chattanooga, TN 37402

Joanna Douglass  
President, Lawyers Association for Women  
Tennessee Department of Human Services  
225 Martin Luther King Dr., #210  
Jackson, TN 38301

Barret Albritton  
President, TDLA  
Spears Moore Rebman & Williams, P.C.  
801 Broad Street, 6<sup>th</sup> Floor  
Chattanooga, TN 37402

Sam Felker  
President, Tennessee Stonewall Bar Assoc.  
Baker, Donelson, Bearman, Caldwell  
211 Commerce Street, Suite 800  
Nashville, TN 37201

Jeffrey Granillo  
President, Federal Bar Association  
Chattanooga Chapter  
Chambliss Bahner & Stophel PC  
605 Chestnut Street, Suite 1700  
Chattanooga, TN 37450

Ami Brooks  
President, Robertson County Bar  
Association  
Brooks & Hendricks, PLLC  
509 W. Court Square  
Springfield, TN 37172

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

Kristin Green  
President, Bedford County Bar Association  
300 E. Lane Street; P.O. Box 461  
Shelbyville, TN 37162-0461

Mary Moffatt Helms, President  
NE Tenn. Chapter Federal Bar Assoc.  
Wimberly, Lawson, Wright, Daves & Jones  
929 W. 1<sup>st</sup> North Street; P.O. Box 1066  
Morristown, TN 37816-1066

James Haywood  
President, Haywood County Bar  
Association  
Haywood Law, PLLC  
50 Boyd Avenue, P.O. Box 438  
Brownsville, TN 38012-0438

Mark Hayes  
Tennessee Bar Foundation Chair  
Jenkins | Dedmon | Hayes Law Group LLP  
111 South Mill Avenue  
Dyersburg, TN 38024

Hilary Duke  
President, Dickson County Bar Association  
Reynolds, Potter, Ragan & Vandivort, PLC  
210 East College Street  
Dickson, TN 37055

Ariel Anthony  
Chapter President, National Bar  
Association, S.L. Hutchins Chapter  
Husch Blackwell  
735 Georgia Avenue, Suite 300  
Chattanooga, TN 37402

Joseph Ford  
President, Franklin County Bar Association  
McBee & Ford  
17 S. College Street  
Winchester, TN 37398

Anne Fritz  
Executive Director  
Memphis Bar Association  
145 Court Avenue, Suite 1  
Memphis, TN 38103-2292

Sandy Garrett  
Chief Counsel  
The Board of Professional Responsibility  
10 Cadillac Drive, Suite 220  
Brentwood, TN 37027-5078

Diana Comes  
President, AWA  
Butler Snow LLP  
6075 Poplar Avenue, Suite 500  
Memphis, TN 38119

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

Karen Crutchfield  
President, TLAW  
Wimberly Lawson Wright Davies  
P.O. Box 2231  
Knoxville, TN 37901-2231

Andrew Morgan  
President, Bradley County Bar Association  
Law Office of Andrew B. Morgan  
P.O. Box 1161  
Cleveland, TN 37364

Kevin Ritz  
Federal Bar Association,  
Memphis/Mid-South Chapter President  
Office of US Attorney  
167 N. Main Street, Suite 800  
Memphis, TN 38103-1827

Christopher Bellamy  
President, Napier-Looby Chapter  
Attorney General 19<sup>th</sup> Judicial District  
502 South Main Street  
Springfield, TN 37172

Hannah Tippet  
President, Anderson County Bar Assoc.  
Mostoller, Stulberg, Whitfield & Allen  
136 S. Illinois Avenue, Suite 104  
Oak Ridge, TN 37830

Cindy King  
Attorney at Law  
President, Cocke County Bar Association  
833 W. Highway 25/70, Suite A  
Newport, TN 37821

Katherine Walker  
Sumner County Bar Association President  
113 W. Main Street, 3rd Floor  
Gallatin, TN 37066-3130

Martin Holmes  
President, Federal Bar Association  
Nashville Chapter  
Dickinson Wright, PLLC  
424 Church Street, Suite 1401  
Nashville, TN 37219

Cindy Hall  
Tennessee CLE Commission Chair  
Franklin, Cooper & Marcus PLLC  
837 Fort Wood Street  
Chattanooga, TN 37403

Jack Warner  
President, Obion County Bar Association  
Warner Law Firm PLC  
308 W. Church Street  
Union City, TN 38261

Monica Mackie  
Executive Director  
Nashville Bar Association  
150 4th Avenue N., Suite 1050  
Nashville, TN 37219

Peter Letsou  
Dean, University of Memphis  
Cecil C. Humphreys School of Law  
1 North Front Street  
Memphis, TN 38103

Mark Mesler  
Tennessee Lawyers Fund for Client  
Protection Chair  
Rosenblum & Reisman, P.C.  
6070 Poplar Avenue, Suite 550  
Memphis, TN 38119

Tiffany Johnson  
Tennessee Alliance for Black Lawyers  
QP Legal Research & Writing Services  
1067 Fleece Place  
Memphis, TN 38104-5620

Wayne R. Kramer  
Past President, Knoxville Bar Assoc.  
Kramer Rayson LLP  
P.O. Box 629  
Knoxville, TN 37901-0629

Suzanne Keith  
Executive Director  
Tennessee Association for Justice  
629 Woodland Street  
Nashville, TN 37206

Rebecca Parsons  
Giles County Bar Association President  
Rebecca Sue Parsons, Attorney at Law  
P.O. Box 333  
Pulaski, TN 38478-3219

Sheila Proffitt  
President, Coffee County Bar Association  
Sheila Bryan Proffitt, PLLC  
202 Woodbury Highway, Suite 300  
Manchester, TN 37355-1989

Michael King  
Chair, Board of Professional  
Responsibility  
King Law Offices  
P.O. Box 667  
Huntingdon, TN 38344

Denny Mitchell  
President, White County Bar Association  
Mitchell Law Office  
112 South Main Street  
Sparta, TN 38583

David Myers  
President, Union County Bar Association  
105 Monroe Street; P.O. Box 13  
Maynardville, TN 37807-0013

Matt Maddox  
President, Carroll County Bar Association  
Attorney at Law  
P.O. Box 827  
Huntingdon, TN 38344

Christopher Raines  
President, Kingsport Bar Association  
Blankenship Law Office  
122 E. Market Street; P.O. Box 1909  
Kingsport, TN 37662-1909

Danielle Hardee  
President, Jackson-Madison-Henderson  
County Bar Association  
U.S. District Federal Court  
111 S. Highland Avenue  
Jackson, TN 38301

Bill Koch  
Dean, Nashville School of Law  
4013 Armory Oaks Drive  
Nashville, TN 37204-4577

Kathleen Shell  
President, McMinn-Meigs County Bar  
Association  
Law Office of Kathleen Hodge  
291 Abel Avenue  
Decatur, TN 37322

William Lawson  
President, Unicoi County Bar Association  
112 Gay Street, Suite A; P.O. Box 16  
Erwin, TN 37650-0016

Judy McKissack  
Director  
Tennessee Commission on Continuing  
Legal Education  
1321 Murfreesboro Pike, #810  
Nashville, TN 37217

Larry Stanley  
President, Warren County Bar Association  
100 W. Main Street  
P.O. Box 568  
McMinnville, TN 37111-0568

Dustin Franklin  
President, Bristol Bar Association  
Second Judicial District Public Defender's  
Office  
P.O. Box 839  
Blountville, TN 37617

Ian McCabe  
President, Loudon County Bar Association  
Law Office of Ian McCabe  
103 Suburban Road, #201  
Knoxville, TN 37923-5584

Daniel Murphy  
President, Maury County Bar Association  
Fleming, Flynn & Murphy  
P.O. Box 90  
Columbia, TN 38402

Lynn Newcomb  
Pres., Cheatham County Bar Assoc.  
Balthrop, Perry, Noe, Newcomb &  
Morgan  
102 Boyd Street; P.O. Box 82  
Ashland City, TN 37015



William Jones  
President, Campbell County Bar Assoc.  
Assistant Public Defender  
3170 Appalachian Highway, Suite 1  
Jacksboro, TN 37757

Nikki Smith-Bartley  
President, LAW Marion Griffin Chapter  
Asurion  
648 Grassmere Park, #300  
Nashville, TN 37211

Nathan H. Ridley  
President, Nashville Bar Association  
Bradley Arant Boulton Cummings LLP  
P.O. Box 340025  
Nashville, TN 37203

Earle Schwarz  
President-Elect, Memphis Bar Association  
2157 Madison Avenue, Suite 201  
Memphis, TN 38104

Terry Stevens  
President, Roane County Bar Association  
DA's Office of the 9<sup>th</sup> District  
1008 Bradford Way; P.O. Box 703  
Kingston, TN 37763-2850

Christie Sell  
President-Elect, Chattanooga Bar Assoc.  
General Session Court Judges  
600 Market Street, 203 Courts Building  
Chattanooga, TN 37402

Deborah Tate  
Administrative Director  
Administrative Offices of the Courts  
511 Union Street, Suite 600  
Nashville, TN 37219-1768

Robert Thomas  
NBA, Ballard Taylor Chapter President  
Weinman & Associates  
112 S. Liberty St., P.O. Box 266  
Jackson, TN 38302-0266

Marsha Wilson  
Executive Director  
Knoxville Bar Association  
P.O. Box 2027  
Knoxville, TN 37901-2027

Patrick G. Frogge  
Executive Director  
Public Defenders Conference  
618 Church Street, Suite 300  
Nashville, TN 37219

Beau Pemberton  
President, Weakley County Bar Association  
Law Office Of James H. Bradberry  
109 North Poplar Street; P.O. Box 789  
Dresden, TN 38225-0789

Lisa Perlen  
Executive Director  
Tennessee Board of Law Examiners  
511 Union Street, Suite 525  
Nashville, TN 37219

Gary Wade  
Dean, Lincoln Memorial University  
Duncan School of Law  
601 W. Summit Hill Drive  
Knoxville, TN 37902

Paz Haynes  
President, Napier-Looby Bar Foundation  
Bone McAllester Norton PLLC  
511 Union Street, Suite 1600  
Nashville, TN 37219

Shea Wellford  
Past President, Memphis Bar Association  
Martin, Tate, Morrow & Marston, P.C.  
6410 Poplar Avenue, Suite 1000  
Memphis, TN 38119

Harriet Thompson  
President, Hardeman County Bar  
Association  
P.O. Box 600  
Bolivar, TN 38008

Drew Taylor  
President, Carter County Bar Association  
210 South Main Street  
Elizabethton, TN 37643

John Lee Williams  
President, Humphreys County Bar Assoc.  
Porch Peeler Williams Thomason  
102 S. Court Square  
Waverly, TN 37185-2113

Melanie Wilson  
Dean  
UT College Of Law  
1505 W. Cumberland Avenue  
Knoxville, TN 37996-1810

Bill Colvin  
President, Chattanooga Bar Assoc.  
William G. Colvin, PLLC  
801 Broad Street, Suite 428  
Chattanooga, TN 37402

Ann Pruitt  
Executive Director  
Tennessee Alliance for Legal Services  
1220 Vintage Place  
Nashville, TN 37215

Sara McManus  
SETLAW President  
Baker Donelson  
633 Chestnut Street, Suite 1800  
Chattanooga, TN 37450-1801

Mario Ramos  
President, Tennessee Association of  
Spanish Speaking Attorneys  
2021 Richard Jones Road, Suite 300  
Nashville, TN 37215

Amy Bates  
President, Montgomery County Bar Assoc.  
Mathis, Bates & Klinghard, PLLC  
412 Franklin Street  
Clarksville, TN 37040-3403

Randall Self  
President, Lincoln County Bar Association  
Randall E. Self, Attorney At Law  
131A Market Street E.; P.O. Box 501  
Fayetteville, TN 37334-0501

Travenia Holden  
President, 15<sup>th</sup> Judicial District Bar Assoc.  
Holden Law Office  
1037 West Main Street, Suite C  
Lebanon, TN 37087

James Taylor  
President, Rhea County Bar Association  
1374 Railroad Street, Suite 400  
Dayton, TN 37321-2211

Julie Palmer  
President, Dyer County Bar Association  
Palmer Law Firm  
116 W. Court Street  
Dyersburg, TN 38024-4639

Kathryn Hatfield  
President, Monroe County Bar Association  
Ridenour & Hatfield  
P.O. Box 444  
Sweetwater, TN 37874-0444

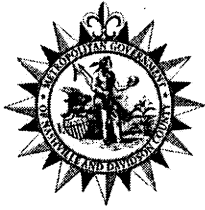
Dean DeCandia  
President, Memphis Bar Association  
Shelby County DAG's Office  
201 Poplar Avenue, Suite 301  
Memphis, TN 38103-1945

Donna Hargrove  
Public Defenders Conference Rep.  
17<sup>th</sup> Judicial District Public Defender  
P.O. Box 1165  
Lewisburg, TN 37091-0165

Diana Burns  
Middle TN Lawyers' Assoc. for Women  
Child Support Magistrate  
20 N. Public Square, Suite 202  
Murfreesboro, TN 37130

Tracey Hawk  
Executive Director  
TN Assoc. of Criminal Defense Lawyers  
530 Church Street, # 300  
Nashville, TN 37219

Erin Palmer Polly  
President-Elect, Nashville Bar Association  
Butler Snow LLP  
150 3<sup>rd</sup> Avenue South, Suite 1600  
Nashville, TN 37201



## METROPOLITAN COUNCIL

Member of Council

### FABIAN BEDNE

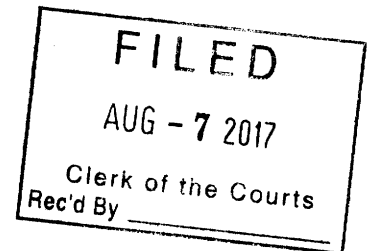
Metro Council – 31<sup>st</sup> District

One Public Square, Suite 204 • Nashville, TN 37201

Telephone 615-829-6226

June 2, 2017

Attn: James M. Hivner, Clerk  
Tennessee Appellate Courts  
100 Supreme Court Building  
401 7<sup>th</sup> Avenue North  
Nashville, TN 37219-1407  
appellatecourtclerk@tncourts.gov



**In re: Amendment of Rule 7, Section 7.01, Docket No. ADM2017-0075** - 00785

Dear Justices of the Tennessee Supreme Court:

As a Nashville Metro Councilmember and the first immigrant elected to public office in Nashville's history, I have made it a priority to look at all the ways in which we impede competent, employable applicants from becoming part of our workforce.

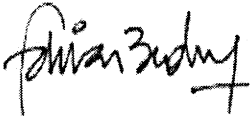
Having meaningful diversity in Nashville will require that we make a concerted effort to remove unnecessary roadblocks to employment. Nashville needs to have professionals who truly understand the people they serve. Preventing immigrants from becoming employable in their prior professions also makes it harder for them to develop the cultural competency needed to integrate into American life.

As an immigrant who earned the Argentinian equivalent of a Master's Degree and professional license in architecture, I have personally been disadvantaged by state regulations that give insufficient consideration to the reality that immigrants often have the expertise and capability required to employ their trade in American jurisdictions. When I was seeking to obtain my architecture license in Tennessee, for example, I was told that I had to go back to college due to my professional incompetence. I ended up working for a leading architecture firm in Tennessee for thirteen years. In that capacity, I was the Project Designer for myriad Nashville landmarks, including the Howard Office Building. The building is still standing.

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Please consider seriously degrees and certifications from other countries when updating Rule 7, Section 7.01. I support the proposal advanced by the Vanderbilt Law School and the University of Tennessee, College of Law, and I urge you to evaluate applicants on their merits before preventing them from obtaining professional licensure. In my experience, giving due credit to an applicant's foreign credentials simultaneously resolves two issues: (1) providing more qualified individuals to meet the growing needs of our community; and (2) allowing talented, skilled individuals to practice in their chosen field of study.

Sincerely,

A handwritten signature in black ink, appearing to read "Fabian Bedne". The signature is written in a cursive, somewhat stylized font.

Fabian Bedne  
Metro Councilmember District 31  
Tel: 615.829.6226 - fbedne@gmail.com



Knoxville Bar Association

August 4, 2017

FILED  
AUG - 4 2017  
Clerk of the Courts  
Rec'd By \_\_\_\_\_

Knoxville Bar Association  
505 Main Street, Suite 50  
P.O. Box 2027  
Knoxville, TN 37901-2027  
PH: (865) 522-6522  
FAX: (865) 523-5662  
www.knoxbar.org

VIA E-MAIL: [appellatecourtclerk@tncourts.gov](mailto:appellatecourtclerk@tncourts.gov)

James Hivner, Clerk of Appellate Courts  
Tennessee Supreme Court  
100 Supreme Court Building  
401 Seventh Avenue North  
Nashville, TN 37219-1407

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Marsha S. Watson  
[mwatson@knoxbar.org](mailto:mwatson@knoxbar.org)

**Re: Proposed Amendments to Tennessee Supreme Court Rule 7,  
Section 7.01; No. ADM2017-00785**

Dear Mr. Hivner:

Pursuant to the Tennessee Supreme Court's Order referenced above, the Knoxville Bar Association ("KBA") Professionalism Committee ("Committee") has carefully considered current Tennessee Supreme Court Rule 7, Section 7.01 ("Rule"), which governs educational requirements for admission of foreign-educated applicants to the Tennessee Bar and the Petition to Amend the Rule filed by The University of Tennessee and Vanderbilt University (the "Petition"). At the KBA Board of Governors' (the "Board") meeting held on June 21, 2017, the Committee presented a detailed report of its review of the Petition. Based upon the recommendation of our Committee, the Board files this comment in support of the Petition, recommending that Section 7.01(a) of the Rule be amended to reflect the Hybrid Approach (*i.e.*, the Texas approach) as outlined on pages 11 and 12 of the Petition.

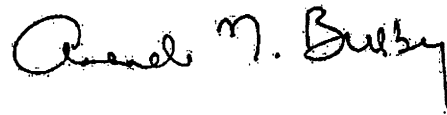
The KBA agrees with The University of Tennessee and Vanderbilt University that the Hybrid Approach supports the Court's goal of ensuring that foreign-educated lawyers are prepared to take the Tennessee bar exam, is narrowly tailored, and provides clarity to applicants prior to their investing substantial resources of time and money required to pursue an LL.M. degree. The KBA believes the Hybrid Approach is preferable to the Practice-Focused Approach or to simply clarifying the "substantially equivalent" language without a Rule change.

The Hybrid Approach not only furthers the Court's interest in protecting the public from incompetent legal representation by setting forth different paths for admission with specific educational background and practice experience requirements, but it is also fair and reasonable to applicants in that it clearly states what is required under each admission path. In making these changes, the KBA also agrees that the Court should affirmatively state that any amendment applies to all foreign-educated lawyers enrolled in LL.M. programs at the time such amendment is adopted.

James M. Hivner, Clerk  
Re: Tenn. Sup. Ct. R. 7  
August 4, 2017  
Page 2

As always, the KBA appreciates the opportunity to comment on proposed Rules and changes to such Rules promulgated by the Tennessee Supreme Court.

Sincerely,

A handwritten signature in black ink that reads "Amanda M. Busby". The signature is written in a cursive style with a large initial 'A' and a long, sweeping tail on the 'y'.

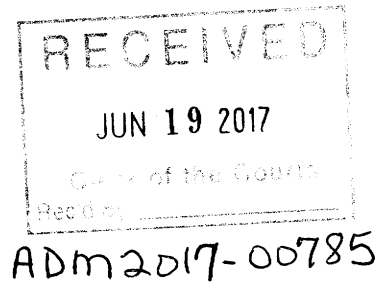
Amanda M. Busby, President  
Knoxville Bar Association

Enclosures

cc: Marsha Watson, KBA Executive Director (via e-mail)  
KBA Executive Committee (via e-mail)

June 14, 2017

James M. Hivner, Clerk  
Re: Tenn. Sup. Ct. R. 7  
Tennessee Appellate Courts  
100 Supreme Court Building  
401 7th Avenue North  
Nashville, TN 37219-1407



To whom it may concern,

I am an immigration lawyer practicing in Tennessee since 1990. I received a B.A. from Vanderbilt University in 1986 and a J.D. from the University of Chicago in 1990. I have written five books including three on immigration law topics and have written about the subject of attorney immigration for several publications over the years. That also included preparing a 50-state survey on licensing requirements for foreign attorneys. The ability of foreign-educated attorneys to practice in the United States is not restricted in US immigration law except to the extent that under the H-1B visa category, an attorney must demonstrate licensure (or meeting all of the requirements for licensure except issuance of the work visa). Attorneys in multinational firms can utilize the L-1 intracompany transfer visa. The TN Visa category, created by the NAFTA Treaty, specifically includes attorneys. I have worked on numerous attorney immigration applications over the years and the process is no different than other licensed fields.

I am perplexed why an individual who has received an LLM from a Tennessee university would not be allowed to sit for the bar examination. I know many foreign-educated attorneys in Tennessee who have made remarkable contributions to our state's legal profession. Many of them received no legal education in the US, but managed to take a foreign country's bar examination (and often in their non-native tongue) and pass. That alone is a pretty good indicator of their abilities. One of the top corporate lawyers in Nashville – an attorney who was my mentor during the early years of my practice – was a foreign law graduate who received his license in New York (a state that is quite liberal in allowing foreign lawyers to sit for the bar examination). I've had several foreign lawyers clerk at our law firm using J-1 visas over the years. One is now a prosecutor in Memphis and another runs a well-known immigration law firm in Atlanta.

My point is that we have an opportunity to attract some of the best and brightest lawyers from around the world to Tennessee if we take a welcoming position as a bar. Many have made it to our state over the years and have been made important contributions. I would

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urge you to consider this in your decision making on permitting foreign-educated lawyers to sit for our bar examination.

Sincerely,

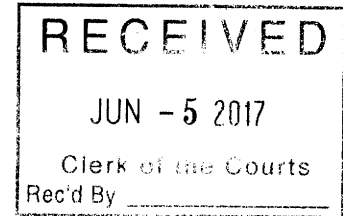
Greg Siskind  
Siskind Susser, PC – Immigration Lawyers  
901-682-6455  
gsiskind@visalaw.com



C. Mark Pickrell, Esq.  
THE PICKRELL LAW GROUP  
5701 Old Harding Pike; Suite 200  
Nashville, Tennessee 37205  
(615) 352-9588

June 1, 2017

Tennessee Supreme Court  
Attn: James M. Hivner  
100 Supreme Court Building  
401 Seventh Avenue, North  
Nashville, Tennessee 37219-1407



Adm2017-00785

Re: Proposed Amendment to Rule 7

Dear M. Hivner:

I am writing in response to the Court's request for comments regarding proposed amendments to Rule 7. I am a graduate of the University of Tennessee College of Law, and I have practiced law for twenty-five years.

The University of Tennessee and Vanderbilt University have petitioned for a change in Rule 7, seeking to make it easier for graduates of foreign law programs to sit for the Bar. I oppose their requested change. Quite simply, it should not become easier for foreign law graduates to sit for the Bar than it is for American law graduates. "General equivalency" is a good rule that should, in my opinion, be maintained.

Under existing Rule 7, there are a number of requirements on Americans that are intended to provide a minimum standard of education for prospective lawyers. We require three years of study of law, and, under the ABA's requirements, this course of study involves primarily the study of American law. In addition, we require a bachelor's degree in a field of study other than law. We require degrees from institutions that are accredited by accepted accrediting bodies, or we require direct or heightened scrutiny of non-accredited institutions.

As a profession, we did not always expect seven years of higher education to become a lawyer. We were originally a trade that learned the profession through tutelage. When law started being taught as a collegiate course of study, we permitted undergraduates to study law, earn the LL.B., and sit for the Bar. That course of study, like engineering, generally required five years of higher education.

In the 1950s, the American Bar Association pressed for, and the Court accepted for Tennessee, a higher educational standard for prospective lawyers. The general norm of seven years of higher education became the standard across the country. It remains the standard today.

The amendments proposed by UT and Vanderbilt, which would eliminate "general equivalency" as the standard of education for prospective foreign-trained lawyers, would undercut our requirements for Americans. While it may be appropriate to reconsider whether seven years of higher education should be our educational standard, until we reconsider that standard for everyone, we should maintain equivalent standards for Americans and non-Americans. If anything, we should be more cautious about the educational backgrounds of individuals who have not grown up immersed in American culture and American values, particularly American constitutionalism.

I have been an Adjunct Professor of Law at Vanderbilt for almost fifteen years. Obviously, my views expressed here do not represent the views of Vanderbilt University. My experience teaching LL.M. students has reinforced my view regarding the propriety of the existing rule. Quite frankly, my LL.M. students have not, in the main, been properly prepared to become American lawyers. Even if they can learn the jargon of American law, their different social and educational backgrounds are, in my experience, often a significant hindrance to the development of good legal judgment within the American legal system. Creating lower standards for non-Americans is wholly unjustified, based on my experience.

Thank you for soliciting comments regarding this matter.

Respectfully,



C. Mark Pickrell