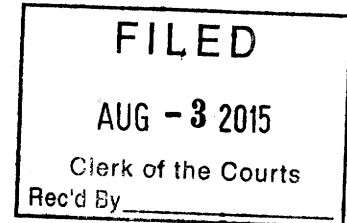




Eleanor Magers Vuono
President
vuono@mac.com
(571) 431-8477
www.msjdn.org

July 27, 2015

James Hivner, Clerk
100 Supreme Court Building
401 7th Avenue North
Nashville, TN 37219-1407



Re: Rule 7, Section 5.03, No. ADMIN201500443, Licensing of Military Spouse Attorneys

Dear Justices of the Tennessee Supreme Court:

I write on behalf of the Military Spouse J.D. Network ("MSJDN"), a bar association for military spouse attorneys, in support of the petition to provide a licensing accommodation for attorney spouses of active-duty service members. This Court has received numerous public comments supporting this proposal, including stories from military leaders, families, and attorneys who want to contribute their talents in Tennessee. I urge this Court to consider the dedicated attorneys whose legal skills Tennessee cannot utilize because of the current barriers to practice law.

As a former active-duty Army judge advocate and military spouse, I personally have experienced the challenges of balancing the legal profession with the demands of the mobile military lifestyle. Likewise, military families with orders to Tennessee face difficult choices when the spouse is an attorney. The attorney spouse who is employed in another state may decide not to move to Tennessee, leaving families separated. Alternatively, the attorney spouse may decide to join the service member in Tennessee and risk unemployment and the associated challenges that come without being able to find work. The military assigns service members to jurisdictions without regard for state bar exam deadlines or licensing restrictions and the service member does not have the ability to decline the move.

The proposed licensing accommodation before this Court would allow a military spouse to practice under a temporary admission to the Tennessee bar if the spouse meets the qualifications of the rule. The rule would require the same high character and fitness standards expected of all Tennessee bar members. And, it would limit admission only for the duration of the military spouse's stay in Tennessee on military orders.

This proposal represents an appropriate balance of Tennessee's duty to maintain the highest standards for members of its bar, and the important public policy interest in supporting military families who sacrifice so much through service to this great nation. With your support, Tennessee can provide a common-sense accommodation to allow these lawyers to share their talents in the state. Although this rule may help only a handful of lawyers in any given year, it

will make a tremendous difference in the lives of those lawyers and the clients whom they may serve.

I encourage you to advance the proposed rule and I thank the Tennessee Supreme Court for its willingness to consider this important issue.

Sincerely,

A handwritten signature in cursive script that reads "Eleanor Magers Vuono". The signature is written in black ink and is positioned above the printed name.

Eleanor Magers Vuono
President, Military Spouse J.D. Network

DIANNA YVONNE LANCASTER MILLER, ESQ.

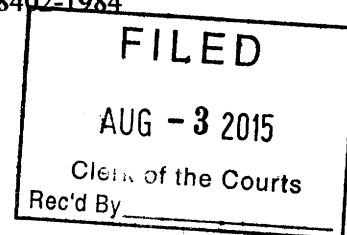
ATTORNEY LICENSED IN THE COMMONWEALTH OF KENTUCKY

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P. O. Box 1984
Columbia, TN 38402-1984

Thursday July 30, 2015

James Hivner, Clerk
100 Supreme Court Building
401 7th Ave North
Nashville, TN 37219-1407



Re: Comments on the TBLE Petition to Amend Rules 6, 7, and 8 (Docket No. ADMIN2015-00443)

Dear Mr. Hivner:

I am writing to express my support for the petition that was filed on March 12, 2015 by the Tennessee Board of Law Examiners (the TBLE) to amend the rules that govern the admission and licensing of attorneys.

I limit my comments to the changes proposed for Rule 7.

Rule 7, Article III

I am largely in support of the changes to Rule 7, Article III. I do support the single deadlines for each of the two exams that are administered each year. I do think this would help the Board operate more efficiently.

However, I do have concerns about the continuing obligation to provide updated character and fitness reports every two years. To be clear, I do not have a problem with the requirement to provide updates, such as name and address, but I believe that the additional requirement of paying additional fees and having friends, family, and colleagues asked to complete questionnaires every two years—even if the candidate is not intending to take an upcoming exam—is overly burdensome.

This is a costly process, especially for fairly recent graduates as well as new attorneys, who cannot afford the continued expenses. In my case, I have kept my application open because I would eventually like to become licensed in Tennessee; however, I have not been able to afford the filing process and all the re-application requirements currently associated with it. I spent most of 2014 and part of 2015 serving as a public defender in Kentucky. I think basic changes should be allowed to be submitted by mail or electronically, without the requirement of submitting a supplemental application if the candidate is not sitting for the next exam.

Rule 7, Article IV

I completely support the provision that would eliminate the need for repeat takers to secure a supervising attorney and provide a study plan to the Board. As a repeat taker, I think this process is overly burdensome and too costly—especially considering that after failing Tennessee's exam in July 2012 by 7 points, I went on to pass Kentucky's bar exam on my own during my first attempt there in February 2013. I was able to use my TN MBE score, ordered a set of books on eBay, and passed that exam without a review course.

Additionally, I think that Tennessee should revisit its policy on not accepting its own MBE score in subsequent exams. It doesn't make sense that Kentucky accepted my TN MBE score, but TN won't accept it.

Also, I think that Tennessee should reconsider the requirement that if a person fails only one portion of the exam, the candidate has to retake all other portions. I think the better policy would be for that candidate to re-take only the failed portion(s). This is Kentucky's policy, and it seems to work fine there.

Rule 7, Article V


My final comment is on the requirement for comity admission. I would ask the Board and the Court to consider reducing the amount of time that an attorney who is licensed in another jurisdiction must practice before he or she can apply for comity admission in Tennessee. Currently, one must practice for at least five out of seven years.

Although I have had some trouble passing Tennessee's exam, I have gone on to do competent work in the legal profession. I recognize that being unsuccessful on Tennessee's exam doesn't mean that I am incapable of meeting the high standards of an attorney. I have successfully practiced in Kentucky. At best, my Tennessee failure simply means that I did not test well in Tennessee.

I think the Board's proposed changes are a great starting step to reducing barriers into Tennessee's legal profession. It is my hope that one day, however, Tennessee will also re-evaluate the substance of its current tests as well. I think the essay questions in particular are in need of an overhaul, although I have in the past, done fairly well on them. Tennessee is missing out on some great attorneys because of the rigid standards that are currently in place.

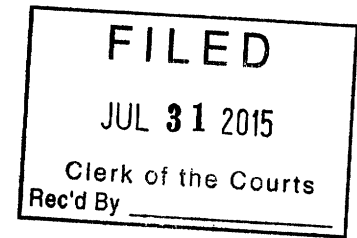
Thank you for your consideration.

Sincerely,


Dianja Y. L. Miller ("Dee")

July 29, 2015

Justice Jeffrey S. Bivins
Justice Cornelia A. Clark
Lisa Perlen, Tennessee Board of Law Examiners
Tennessee Supreme Court Building
401 7th Avenue North
Nashville, TN 37219



ADM2015-00443

re: Amnesty for Lawyers (Second)

Dear Justice Bivins, Justice Clark and Ms. Perlen:

I write to oppose a second blanket lawyer amnesty and, instead, make an alternate proposal.

You are planning a second blanket amnesty for lawyers, despite having granted the first blanket amnesty just a couple of years ago. Somehow I do not think this is something the public is going to get behind.

While browsing through your website, I discovered the proposed comprehensive amendments to Rules of the Tennessee Supreme Court for the admission and licensing of lawyers. Your stated purpose is to ensure consistency and "to expand the provisions of the rules related to licensing of attorneys admitted in other jurisdictions in consideration of the increased mobility and relocation of lawyers." These are admirable ideals and goals, to be sure.

While most of the proposed changes are "housekeeping" in nature and positive, you are also proposing a second lawyer amnesty. Your proposal states that "many attorneys who relocate to Tennessee as In-House Counsel mis-read" Tennessee law primarily because of an alleged misplaced comment. As a result, they engage in the unauthorized practice of law, or UPL, by not getting admitted or registered.

In other words, out-of-state lawyers who are employed in-house by a business in Tennessee claim they become confused and, as a result, engage in the unauthorized practice of law. Really?

So the question is: Should lawyers be granted blanket amnesty? Twice?

Please see Tennessee Code Sec. 23-3-101 and the following sections (no person may engage in the unauthorized practice of law), Tennessee Supreme Court Rule 7 Article I (may not practice law in Tennessee without following the admission or registration rules of the Tennessee Supreme Court), Tennessee Supreme Court Rule 7 Article V (may be waived in if practiced 5 of the last 7 years and admitted in another state), Tennessee Supreme Court Rule 7 Article X (in-house lawyers, if not admitted through the bar exam or waived in, must register within 180 days), Tennessee Supreme Court Rule 8, Rule of Professional Conduct 5.5 (may not engage in the unauthorized practice of law, but in-house lawyers may register), and others.

Tennessee law is clear that in-house lawyers need to be admitted or registered; this is consistent with other states. This is not a surprise and every business lawyer knows this.

In-house lawyers sometimes move from the state of their law license (their home state) to take another in-house job in a new state where they are not licensed (their new host state). If they take a job in

Tennessee, they can take the Tennessee bar exam, waive in if they have practiced for 5 of the last 7 years in any state, or register as in-house lawyers within 180 days and practice law only for their employer. All must meet certain requirements, including participation in a character and fitness investigation (TNSC Rule 7 Article VI).

It seems this issue keeps coming up, year after year and decade after decade. When consequences are felt by in-house UPL lawyers, they claim "inadvertence", "error", "mistake", "busy", "life events", etc. Perhaps the solution is to enforce the law and word will circulate.

Let's review some history. Some in-house lawyers over the years have complained about the requirement to be admitted and take the bar exam in their new host states of employment if they move after being licensed in their home state. In fact, there were several high profile "outings" by the business press of in-house UPL lawyers. As a result, approximately 20 years ago, there was a movement to permit them to merely register with their (new) host states if they could not waive in and did not wish to take another bar exam. This movement had several prominent backers and laws were passed and rules adopted nationwide, including Tennessee a couple of years ago. One of the promises was that the new in-house counsel registration rule, coupled with an amnesty for those lawyers who were then violating the law, would end the unauthorized practice of law problem once and for all. According to the comments to your current proposal, the first blanket amnesty did not work as promised, even though Tennessee is probably the easiest state for out-of-state lawyers.

Lawyers have a special obligation to honestly and faithfully follow the law; they even take an oath.

Business lawyers, including those who work in-house, have known for decades that each in-house lawyer must obtain permission from the proper authorities to practice law in the states of their employment. Most in-house lawyers do, but there has always been a stubborn minority who do not. The reason is usually that they do not want to be inconvenienced and do not believe there will be consequences. In fact, some of them engage in the unauthorized practice of law in multiple states over the span of their careers.

Anyone can easily determine the national requirement for in-house lawyers to be admitted or registered: Google keyword searches, legal research databases, seminars, continuing legal education courses, professional organizations such as the Association of Corporate Counsel, legal research providers, periodicals, blogs, Listserv and other lawyers. There are innumerable articles, surveys and posts. There is no question, and there has been none for decades. In fact, anyone taking an in-house position in Tennessee can always consult with Tennessee counsel or even call the Tennessee Board of Law Examiners. After all, Tennesseans are eager to be helpful.

What are some of the consequences of in-house lawyers practicing without admission or registration?

- a. Unlawful
- b. May result in serious disciplinary action in the new host state and the state of licensure
- c. No attorney-client privilege
- d. No attorney work product protection
- e. No advice of counsel defense for the company, its executives or owners
- f. Investors and others could include in a lawsuit a cause of action to unwind their investment and/or seek damages due to lack of disclosure

The last consequence deserves special attention. In today's business litigation environment, plaintiffs and their lawyers seek and exploit vulnerabilities. This cause of action would go to trial. The defendant company with the UPL lawyer will not defeat this cause of action with a motion to dismiss or summary judgment motion. The finder of fact would then determine whether or not a reasonable investor, or the plaintiff investor, would not have invested if UPL had been disclosed; i.e., whether it is material, particularly if the UPL lawyer is senior and particularly if the UPL lawyer engaged in UPL in other states. This is not likely to be the sole cause of action in a lawsuit, but it would be an effective add-on.

As you can tell, these are very serious issues. No lawyer has the right to expose his or her client to this type of liability.

And what does the second blanket "amnesty" mean, as you now propose? Your proposal states "the Board proposes an amnesty period to allow current In-House Counsel thinking [sic] that they are authorized to offer [legal] services to their employer . . . without further action, to register without risk of being reported for unauthorized practice of law to the Tennessee Board of Professional Responsibility or the disciplinary authority in the jurisdictions in which they are licensed."

In other words, you propose to process the application of in-house UPL lawyers for 6 months after adopting the second blanket amnesty rule without informing the disciplinary authorities of their UPL violation in either Tennessee or their home state of licensure. Don't you also have ethical obligations?

And what about the consequences outlined above? Can you forgive the unlawful act through a second blanket amnesty? Can you decree a blanket forgiveness of the violation of law and eliminate the possibility of disciplinary action? Can you create attorney-client privilege or attorney work product doctrine where none existed? Can you create an advice of counsel defense where none existed? Can you erase a civil cause of action by public investors? The answer, of course, is "No."

Have any other professions been granted any amnesty in Tennessee? A second amnesty? Doctors? Nurses? Architects? Cosmetologists? Dentists? Court reporters? Contractors? Veterinarians?

In short, granting the first blanket amnesty was not a good idea, and this second round of amnesty is a very poor idea that should not be adopted.

As an alternative, perhaps you could consider clemency or forgiveness on a case-by-case basis.

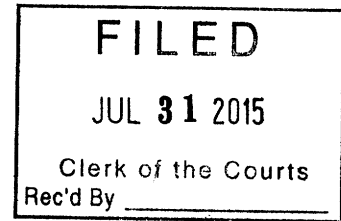
There would have to be good cause shown; perhaps some extraordinary unforeseeable event that can be demonstrated by affidavit. And, of course, each applicant would have to pass the character fitness investigation. The good cause should demonstrate why the UPL in Tennessee does not demonstrate lack of character and fitness. Will the in-house UPL lawyers be required to show that somehow they reasonably "overlooked" one comment to one rule? Will they have to show they were somehow "thinking that they were authorized to offer [legal] services to their employer" without admission or registration? What if they engaged in the unauthorized practice of law in other states? It seems like that would result in disqualification. Did the UPL lawyer continue to practice law and hold him or herself out as a lawyer after discovering their "inadvertence"? Did the in-house UPL lawyer advise his or her employer/client when he or she was hired? At any time after? Did any outside lawyers with knowledge advise the company? I am sure you can come up with appropriate criteria.

cc: select legislators and media

From: "Lovely A Thomas-McCracken" <LovelyAThomas@hotmail.com>
To: <lisa.marsh@tncourts.gov>
Date: 7/31/2015 2:56 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Friday, July 31, 2015 - 2:56pm
Submitted by anonymous user: [68.34.198.238]
Submitted values are:

Your Name: Lovely A Thomas-McCracken
Your Address: 302B Baker Street, Fort Campbell, KY 42223
Your email address: LovelyAThomas@hotmail.com
Your Position or Organization: Attorney
Rule Change: Supreme Court Rule 6, 7, and 8 (RPC 5.5)
Docket number: ADMIN201500443
Your public comments:
Dear Honorable Justices of the Tennessee Supreme Court



I am a military spouse attorney writing in support of the request to amend Tennessee Supreme Court Rule 7 section 5.03, No. ADMIN201500443. I would like to share my story with you.

I graduated from Indiana University School of Law in May 2006. The fall before graduation, I reconnected with a military acquaintance and subsequently moved to North Carolina to be with him. I had no idea at that time the impact this decision would have on my career. I passed the North Carolina bar exam that summer and landed my first job as an attorney. Sadly, our combined incomes were not enough to cover my student loans and our household expenses. My now spouse, applied to become a warrant officer. We were elated when he passed the first phase of training and subsequently surprised when we received orders to move within thirty days to Fort Benning, GA.

Although North Carolina has reciprocity with Georgia, I was one year shy of qualifying. Since our notice to move was so short and during the summer, I was unable to register for the July bar exam. My husband received a small pay increase, but with the loss of my income, we never saw it. I deferred my loans until I could secure a legal position and looked towards the next exam. I then discovered that I could not afford the nearly \$3000 in fees for the exam and bar review courses. The only recourse would be to increase our debt by securing another loan that I couldn't afford. We decided against doing so after a new directive was issued requiring Warrant Officers to now move at least once every three years.

I foolishly figured that with my military background, volunteer and work experience, I would easily secure a legal position, especially in a military town. The only attorney position I was able to secure was as a volunteer for Georgia Legal Services. After almost a year of unsuccessful job hunting, I lowered my expectations and started applying for legal related positions and those that my law school ensured me that my degree would easily transfer to. Most employers figured that as a military spouse I was just passing through, so I wasn't considered. My confidence was starting to wane. Not to be deterred, I joined the local chapter of Junior League and started networking and volunteering.

My efforts still proved futile. I was somewhat elated when approximately a

year and a half after arriving, we received our next orders to Fort Campbell, KY. This time we were given 90 days to relocate.

Disappointment soon set in as I quickly realized that those same obstacles exist here. Once again, I cannot afford the fees. I applied for and was awarded a scholarship. Sadly, I turned it down after discovering that I was incorrectly informed that the award would also cover the cost of the review course.

My 10 year law school reunion is next year and I will most likely not attend.

Since I made the decision to keep our family together, I am lacking notable achievements, career wise. It is tiring to explain to my peers how being a military spouse has impacted my career. Many just assume that it's from a lack of effort until I explain that since I've never remained in one place long enough for reciprocity to apply, I have to start over with every move, despite my experience. Since I lack income, but my loans must still be repaid, my family lives from check to check and we simply cannot afford to pay several thousand dollars every few years in exam and review courses fees.

Sadly, my career or lack thereof has become a point of contention in my household as our size and expenses have increased. If I did not have such a strong passion for the law, I would have given up on this dream by now. While my husband is prospering in his career and looking towards retirement in the next few years, I am looking forward to starting my own. Some would say that it is my own fault for marrying a service member. Although I never imagined my career would be affected to this extent, I firmly believe that you can't help who you love. I am proud of his service to our country and know that he also takes immense pride in what he does.

I wish that my story was unique. Sadly, this is the sacrifice of most military spouse attorneys. I hope that you will consider the proposed rule change which will lift the single most significant barrier to gainful employment that we face. We are a truly resilient bunch that sincerely not only want to contribute to our households, but we want the opportunity to put our hard earned skills to use by practicing our craft.

Thank you for your time!

Sincerely,

Lovely A Thomas-McCracken
Bar # 35607 NC

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/12429>

Scott D. Hall

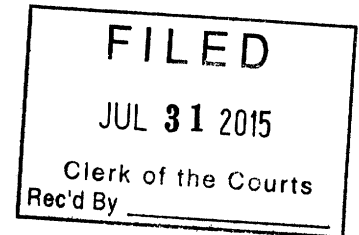
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July 31, 2015



Mr. James M. Hivner, Clerk
Tennessee Appellate Courts
100 Supreme Court Building
401 7th Avenue North
Nashville, TN 37219-1407

ADM2015-00443

Re: Tennessee Bar Admission - Proposed Rule Changes

Mr. Hivner,

I am writing to comment on the proposed relaxing of the Supreme Court Rules with regard to admission to practice in Tennessee. Particularly, the "reciprocity" provisions of our Supreme Court Rules are my primary concern.

In actuality, it has been my experience that other states do not have reciprocity with Tennessee. While Tennessee Rules allow any Tom, Dick, or Sally attorney to become licensed and compete with Tennessee attorneys, Tennessee attorneys are not allowed to do the same in other States.

As an Example, Alabama claims "reciprocity" but to gain such, a Tennessee attorney must move his or her practice to Alabama. To the contrary, Tennessee has no such provision, and any Alabama attorney may practice in Tennessee merely by applying under Rule 7, Section 5. Essentially, the Tennessee qualification is merely to be licensed in another State and to have the desire to take business from Tennessee attorneys.

Another Example is Florida. While Florida did allege reciprocity, they don't anymore. Still yet, Florida attorneys are being allowed left and right to practice in Tennessee merely by complying with Rule 7, Section 5. Another stake in the heart of Tennessee attorneys when trying to become admitted to the Florida Bar is that they charge \$3,000 for the application. If I want to assist any of my numerous Florida relatives, I have to associate a Florida attorney and pay the Florida attorney to sit in on my case.

These "hurdles" placed by other States are intended to keep Tennessee attorneys from moving into another State to begin practice. Currently, Tennessee seems to be about the easiest

State in which to circumvent the licensing rules, yet it is proposed that we make the rules more lax. You are devaluing every Tennessee attorney!

You are hurting Tennessee attorneys and costing us money by allowing these other jurisdictions to flood the Tennessee market. Most Tennessee attorneys struggle, for not a huge income. Most Tennessee attorneys are hurt by the unfair (i.e., one-way-street of "reciprocity") that Tennessee so graciously allows. Like it or not, the practice of law should generate income so that bills may be paid.

Your proposed relaxation of the licensing rules merely adds insult to injury. The Tennessee attorney is hurt by relaxing the rules. Tennessee attorneys do not benefit from the current, nor proposed, lax licensing rules.

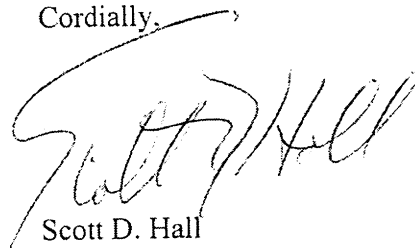
Further, making it easy for out-of-state attorneys to practice in Tennessee does not help Tennessee residents. Competency should be an ingredient to the licensing process, and with your attempt to flood the market with attorneys by lowering the admission standards encourages lesser qualified individuals to come to Tennessee. If these attorneys can't make it in other states, why relax the Tennessee Rules to pull these people into Tennessee? So someone can run a divorce mill in five (5) states and undercut the hardworking Tennessee divorce attorney?

Please consider the practical obligations of trying to ethically and effectively operate a law practice. Many Tennessee attorneys would love to have a government job which assures a regular salary and provides State benefits such as health insurance coverage and retirement plans. In my experience, I know that many Tennessee attorneys have gone without health insurance coverage and only hope to save enough to cover expenses after they can't work enough to cover all expenses.

If you want good attorneys in Tennessee, you need to treat Tennessee attorneys fairly and not try to dilute their incomes to poverty level.

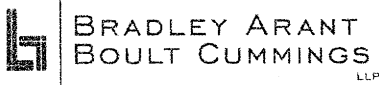
I object to any changes proposed to the licensing Rules. Tennessee is already the easiest state in which to become licensed without taking the Bar Exam, based on my experience.

Cordially,



Scott D. Hall

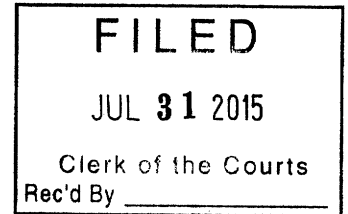
SDH/ts



William L. Norton III
Direct: (615) 252-2397
Fax: (615) 252-6397
bnorton@babc.com

July 31, 2015

James Hivner, Clerk
Re: Rule 7, Section 5.03
100 Supreme Court Building
401 7th Avenue North
Nashville, TN 37219-1407



RE: Public Comments Regarding Rule 7, Section 5.03, No. ADMIN2015-00443

Dear Hon. Justices of the Tennessee Supreme Court:

This is to provide public comment in support of Amendment to Rule 7 regarding licensing of military attorney spouses.

I am a veteran of the United States Navy and have two sons who also served in the military. All of us were married during our service and we experienced first hand the unique stress that military service places on a family. The frequent moves of duty stations that is inherent in the military service make it difficult for spouses to find meaningful employment to supplement their family income. The standard licensing requirements make it impracticable for a military spouse to practice law in Tennessee during the brief period of their duty assignment in Tennessee. The proposed amendment to Rule 7 is a meaningful way to improve the quality of life for military families serving in Tennessee and is a great opportunity for Tennessee to demonstrate support for our nation's military and their families.

Thank you for your consideration of my support of this Amendment.

Respectfully,

William L. Norton III

WLN/dla

7/3693418.1

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

FILED

2015 JUL 27 PM 3:25

IN RE AMENDMENT OF RULES 6, 7, AND 8 (RPC 5.5) APPELLATE CLERK
RULES OF THE TENNESSEE SUPREME COURT TBLE

No ADM2015-00443

COMMENT OF THE TENNESSEE BAR ASSOCIATION

The Tennessee Bar Association (“TBA”), acting through its President-Elect, Jason Long¹; Chair, TBA Standing Committee on Ethics and Professional Responsibility, Brian S. Faughnan; General Counsel, Paul Ney; and Executive Director, Allan F. Ramsaur, in response to two Orders of this Court soliciting public comment – one entered March 25, 2015, and one entered April 13, 2015 – submits the following comment on the petition filed by the Tennessee Board of Law Examiners (“TBLE”) on March 12, 2015 and the amendment to that petition submitted by a group of lawyers regarding treatment of spouses of military service members on April 6, 2015. The TBA generally agrees with the stated rationales and supports the objectives of both of the proposals concerning comity admission to practice law in Tennessee, practice pending admission, consideration of permission to take the bar exam by lawyers licensed in other states who are graduates of schools approved only by those states, registration by in-house counsel for the limited practice of law in Tennessee, and the temporary admission to practice law in Tennessee of lawyer spouses of active duty U.S. servicemembers. With respect to each proposal, however, the TBA differs on certain specific elements and urges the Court to adopt important

¹ The president of the TBA is a sitting member of the TBLE and has therefore abstained from advocating a position on behalf of the TBA in response to the petition filed by the TBLE. Pursuant to provision 35 of the TBA Bylaws, these duties have been delegated to the President-Elect.

modifications to certain aspects of the proposed rule revisions, as explained in this comment and as set forth in Exhibits 1 and 2 attached to this comment.

BACKGROUND

A. Comity Admission.

Various sections of Rule 7 of the Rules of the Tennessee Supreme Court govern the admission of lawyers licensed to practice law in other U.S. jurisdictions to practice law in Tennessee without examination, *i.e.* comity admission.

Convinced that the public and justice system are adequately protected with respect to the competence, reputation, character, integrity of lawyers admitted in other jurisdictions, the TBA has supported the move towards greater flexibility of admission of lawyers by allowing the TBLE to waive the examination of applicants admitted in other jurisdictions in this country that satisfy the other requirements for admission. This policy has generally benefited the bench and bar in Tennessee by providing greater diversity and addresses the reality that regional and national law firms demand greater mobility in lawyers they wish to hire.

However a change in Rule 7 § 5.01 which was adopted without comment in 2011 has significantly impaired the effectiveness of these comity provisions as to any lawyer looking to move to Tennessee to practice law in response to a job offer. As Section 5.01 currently reads, a lawyer licensed in another jurisdiction who files a completed application for comity admission on August 1, 2015 and then moves to Tennessee to start work at a new job on August 8, 2015 (or even September 1, 2015 for that matter) places herself in an untenable position because her comity application appears doomed to failure. This is because currently Section 5.01 provides that a lawyer cannot begin “the law business,” “the practice of law,” or employment as a lawyer

in Tennessee until the Board has actually approved the lawyer's application for comity admission.

Because it takes months, in the best case scenario, for the TBLE to be in position to actually approve someone for comity admission, this requirement for application *and* approval prior to starting work has made it practically impossible for many lawyers with reasons to move to Tennessee to obtain comity admission in a way that complies with the language of the existing rule. It is difficult to imagine a scenario in which a lawyer licensed in another jurisdiction, who receives a job offer in Tennessee, would be able to accept the offer but convince the employer to wait many months before the lawyer can move to Tennessee and begin work. Prior to the insertion of this language in Section 5.01 in 2011, this type of situation was addressed in a workable (if not perfect) fashion under the principles that had been set forth in several Formal Ethics Opinions issued by the Board of Professional Responsibility dating back to 1985 and culminating with Formal Ethics Op. 2012-F-91(b). After the 2011 amendment to Tenn. Sup. Ct. R. 7, § 5.01, however, the BPR issued Formal Ethics Op. 2012-F-91(c) calling into question the viability of the approach under the prior Formal Ethics Opinions.

B. Admission by examination of lawyers licensed in other states who are graduates of schools approved by those states

The TBLE proposes a new provision in Tenn. Sup. Ct. R. 7, § 2.02(c) which would permit the Board to consider granting permission to take the bar exam by lawyers licensed in other states who are graduates of schools approved only by those states. The effect of these new provisions is to permit graduates of schools which are not ABA-accredited but are approved by an agency that is equivalent to our TBLE to apply for admission and request permission to be

eligible to apply for admission by examination. Such admissions would be conditioned upon good standing before the highest court jurisdiction, practice of law for 3 of the last 5 years in the lawyer's home jurisdiction, and satisfaction of character and fitness requirements.

This is not the first time this Honorable Court has addressed this issue in recent years. In 2009 and 2010 the court considered the matter of Melissa Campbell Lanzo vs. the Board of Law Examiners for the State of Tennessee No. M2010-01646-SC-BLE-RL. The matter was a petition to amend Tenn. Ct. R. 7 § 2.02 to permit Ms. Lanzo and other graduates of approved schools who pass the bar in other states and practice from 5 to 7 years in their home jurisdiction to sit for the exam in Tennessee. By order dated October 12, 2010 the Court indicated it was considering an amendment which would have replaced the provisions indicated by Ms. Lanzo.

The TBA opposed any such change in the rules at that time. In opposing the petition, the TBA expressed concerns that only a small minority of U.S. jurisdictions (only 14 states) then permitted graduates from non-accredited schools approved only in their home state to sit for their examination, and that the proposed rule would effectively incorporate by reference the educational requirements from states which permitted law school correspondence courses. On February 25, 2011 the Court concluded the proposed amendment should not be adopted and that a waiver of examination should not be granted to Ms. Lanzo.

C. In-house Counsel.

The rules permitting registration for in-house counsel for the purpose of providing legal services to a sole client/employer found in current Tenn. Sup. Ct. R. 7, § 10.01 were adopted at the urging of the TBA. In advancing the proposal, the TBA argued that such a provision would facilitate movement of in-house corporate counsel employed by Tennessee companies and that

the risk of harm to those employers, mostly sophisticated businesses or corporations, would be insubstantial. In adopting this rule and the change to Tenn. Sup. Ct. R. 8, RPC 5.5(d) (1), the TBA also suggested an amnesty provision which would initially permit lawyers who had been providing legal services without permission under the rules to register without a sanction if they registered by June 30, 2010. For new in-house counsel applicants the rule establishes that such lawyers must submit their registration application within 180 days of beginning employment. The TBA now agrees with the TBLE recommendation for adoption of a new safe harbor or amnesty.

Unfortunately, the in-house counsel registration provisions under Tenn. Sup. Ct. R. 7, § 10.01 and the language in Tenn. Sup. Ct. R. 8, RPC 5.5(d) have not been fully understood by some in-house counsel. As a result, in-house counsel who filed applications for comity admission rather than first seeking to obtain a registration license as in-house counsel have found themselves in the same untenable position as other lawyers moving to Tennessee to take a job offer, but also end up foreclosed from obtaining the in-house registration license they otherwise were eligible for because more than 180 days of employment had passed before learning of the problem with their comity application.

These problems, arising from the language added to Section 5.01 in 2011 about conditions precedent for comity admission, have resulted in the TBLE having a significant number of applicants for admission (both in-house counsel and other attorneys) who present no character or fitness questions and to whom the TBLE would otherwise grant admission but for whom the TBLE appears not to have discretion to grant admission because of the language of Tenn. Sup. Ct. R. 7, § 5.01 and because of the strict 180-day time period under Tenn. Sup. Ct. R. 7, § 10.01. As a result, it is believed that there are a significant number of applicants for

admission by waiver or in-house counsel registration in Tennessee whose matters are being formally, or informally, held in abeyance by the TBLE in hopes that the Court will adopt revisions to Rule 7 that will permit these candidates to be licensed. Some applicants have endured uncertainty for lengthy periods of time, as the TBLE first began communicating to some applicants as early as the summer of 2014 about the intent to seek revisions to the Rule, and it is understood that some matters have been in such a holding pattern for approximately a year. The TBA lauds the TBLE for its efforts to recognize and address these problematic issues in its March 12, 2015 petition.

D. Military Spouses.

In an April 6, 2015 filing in response to the TBLE's petition, a group of lawyers raised an altogether different concern regarding the Tenn. Sup. Ct. R. 7 treatment of lawyers licensed in other jurisdictions. That group proposed a revision to the rules that would ameliorate the particular hardships that frequent relocation can pose in meeting the requirements for comity admission for practicing lawyers who are married to persons in active military service. By order dated April 13, 2015 the Court then put that separate proposal out for public comment as well.

THE TBA POSITION AND PROPOSED REVISIONS

A. Comity Admissions

The TBA agrees with the TBLE proposal to revise Tenn. Sup. Ct. R. 7, § 5.01 to permit greater flexibility in practice pending admission and to fix the problem arising from the language added in 2011 which made comity admission in compliance with the rule a practical impossibility for anyone relocating to Tennessee to take a job as a lawyer. As such, the TBA supports the TBLE proposal to better delineate in Tenn. Sup. Ct. R. 7, § 5.01 the conditions that

should actually be prerequisites for comity admission. The TBA also agrees generally with the TBLE effort in its proposed Tenn. Sup. Ct. R. 7, § 1.01 to more clearly identify the various rules providing exceptions and special permissions for practice beyond the general license requirement articulated in Section 1.01(a).² Because of concerns with some of the other aspects of the TBLE's proposed revisions to Section 5.01 relating to comity admission, the TBA also has proposed, as detailed in Exhibit 1 to this comment, modified versions of Tenn. Sup. Ct. R. 7, §§ 5.01(a), (c), and (d). As one example of such a concern, the TBA does not agree that how much money a lawyer makes in a year or how many hours they can prove having worked should be determinative factors in this rule as to whether something counts as the "active" practice of law and therefore offers a proposed Section 5.01(c) without those additional requirements.

The TBA also agrees with the TBLE that the time has certainly come for Tennessee to have provisions in place to allow practice pending admission under Tenn. Sup. Ct. R. 7. However, the TBA disagrees with the TBLE's specific proposal on that subject. The TBLE's proposal would impose the same requirements and restrictions for a brand-new law school graduate waiting for bar exam results and a lawyer relocating to Tennessee after having been licensed for ten years in another U.S. jurisdiction. The TBA respectfully submits that this is not a situation in which one size fits all. Instead, as is detailed in Exhibit 1 to this comment, the TBA is proposing a two-track approach to permitting the practice of law in Tennessee pending admission.

Under the TBA's proposal, Tenn. Sup. Ct. R. 7, § 5.01(g) would govern practice pending admission (and § 5.01(h) would identify the grounds for termination of that right of practice) for

² The TBA differs with the TBLE a bit on the details of those proposed revisions and has proposed modifications to Tenn. Sup. Ct. R. 7, § 1.01(b) and (c), as detailed in Exhibit 1 to this comment. The TBA submits that its modifications more accurately and comprehensively capture the various rules and special permissions that should be acknowledged as exceptions to Section 1.01(a)'s mandate, including a cross-reference that assumes that the Court will adopt some version of the proposed Section 1.07 to address the military spouse admission issue.

lawyers who are already licensed in at least one other U.S. jurisdiction. Under the TBA's proposal, comity applicants as well as lawyers already licensed in another U.S. jurisdiction who, for whatever reason, have opted to sit for the Tennessee bar examination, would be able to provide legal services in Tennessee and establish an office or other systematic and continuing presence in the state for up to 365 days while their application for admission is pending. This ability to practice pending admission would be available only to lawyers who could satisfy all of the ten enumerated requirements and restrictions set out in Section 5.01(g). The TBA's proposal in this regard is modeled upon, but not identical to, the ABA Model Rule for Practice Pending Admission. The TBA urges the Court to adopt this kind of practice pending admission regime for applicants already licensed in another U.S. jurisdiction rather than the TBLE's proposal to treat them the same for these purposes as law school graduates seeking their first law license.

For as yet unlicensed law school graduates awaiting results of the Tennessee bar examination, the TBA proposes Tenn. Sup. Ct. R. 7, § 10.04 continue to separately address those circumstances. Because the TBA believes that the current rule governing that situation is not broken, the TBA's proposal works from the language of that section in the existing rule but has made some modifications, including revising § 10.04(a)(i)(3) to remove the current registration requirement for law graduates who are only performing office work.

B. In-house Counsel

The TBA agrees with and urges adoption of the TBLE's proposal to provide a new 180-day "amnesty" period for people presently working as in-house counsel for employers in Tennessee and fully supports the TBLE proposed changes to Tenn. Sup. Ct. R. 7, § 10.01 and Tenn. Sup. Ct. R. 8, RPC 5.5(d). The TBA believes those changes (especially when coupled with renewed efforts by the TBLE to provide education and publicity about this issue) should

better educate current, and future, in-house lawyers in Tennessee about the importance of meeting the 180-day deadline for registration. As detailed in Exhibit 1 to this comment, the TBA does suggest adding a new subsection to Tenn. Sup. Ct. R. 7, § 10.01. The TBA's proposed Section 10.01(i) would make explicit what the TBA, and we believe the TBLE and BPR as well, have implicitly understood to be true since the registration concept was first adopted by this Court – that as long as a timely application for registration is made by day 180, then the work performed by the in-house lawyer during days 1 through 179 is not subject to attack, under the ethics rules or otherwise, as the unauthorized practice of law.

C. Admission by Examination of Lawyers licensed in other states who are graduates of schools approved by other states

Since the time that the TBA opposed the sort of change the TBLE now advocates, the landscape has changed. A significant additional number of states now permit lawyers graduating from law schools recognized only in their home jurisdiction to seek admission in their state. As a result, the TBLE petition indicates that now such a position is embraced by 36 states. In addition to the changed landscape, the TBLE proposal now offers stricter standards for admission, character, and fitness and the proposed rule would not permit correspondence courses. For these reasons, the TBA no longer opposes such a revision to Rule 7. The TBA is proposing one minor deviation from the TBLE proposal on this point. The TBA would reconcile the number of years practice provision with that for comity admission under § 5.01(a) to make the lawyer's practice requirement be for 5 of the last 7 years.

Thus, the TBA submits that Tenn. Sup. Ct. R. 7, § 2.01(c)(ii) should read: "The attorney has been actively and substantially engaged in lawful practice of law at his or her principal

business or occupation for at least 5 of the last 7 years immediately preceding the filing of the application.

D. Military Spouse Admission.

The TBA certainly understands the plight that spouses of active members of the military can endure with respect to their own employment issues because of the need for frequent relocation. The difficulty for those who are members of the legal profession is articulately explained in the April 6, 2015 proposal for amendment to Tenn. Sup. Ct. R. 7 by adding a new Section 1.07. The TBA understands that any rule change in this regard will likely impact a very small number of people in Tennessee. However, even if only a handful of lawyers who are spouses of military servicemembers are able to take advantage of such a rule change, the TBA believes the benefits of doing so appear to outweigh any risks for Tennessee consumers of legal services or the administration of justice in Tennessee.

The TBA does believe, as detailed in Exhibit 2 to this comment, that a modification to the proposed Section 1.07 is in order. Because of the inherent uncertainty as to length of stay that serves as the justification for the rule change in the first place, the TBA respectfully disagrees that a three-year temporary license with an opportunity for a two-year renewal period is the correct approach. Given that the proposal seeks a temporary license that would span for multiple years in length, the proposal identifies and provides in its Section 1.07(e) numerous provisions triggering “termination” of the license as well as various “wind down” periods of differing length after termination to permit continued practice presumably for transitioning client matters to other lawyers. Those provisions, though, are unnecessarily complex and may have unintended consequences. For example, such an approach could end up creating a court rule that appears to

encourage, or even pressure, an unhappy spouse to remain married out of a fear of harming a client whose matter may have pending deadlines.


The TBA's modified proposal, as shown in Exhibit 2 to this comment, involves a more straightforward renewable, one-year, temporary right to practice under Tenn. Sup. Ct. R. 7, § 1.07. The TBA approach supplants a longer initial period that might have to be required to terminate upon certain future events with a one year right of practice that is renewable for additional one-year periods for as long as the requirements for issuance of the license in the first instance continue to be met. If circumstances have changed and the lawyer would no longer qualify for the license, then the license simply expires at the end of the initial year or at the end of any renewal year. This is similar to approach adopted in Arizona, Idaho, and Virginia


E. Transition Issues.


Finally, because of the number of lawyers currently in Tennessee who have been impacted by the current rules and uncertainty over how the rules might be amended to resolve these issues raised by the TBLE's petition, the TBA asks this Court, to include in any Order adopting a new version of Rule 7 the following language to address the transition period:


From and after *[date of entry of this Order]* and continuing until *[the one-year anniversary of the effective date of the new provisions]*, the Court specifically directs the Board of Law Examiners to use discretion in adjudicating pending applications that have not been finally ruled upon, including waiving or altering time periods or otherwise varying provisions, to tailor such discretion toward granting the applicant's application for comity admission as long as the Board otherwise reaches the conclusion that the lawyer possesses the character and fitness to practice law in this jurisdiction.

Respectfully Submitted,

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



Allan F. Ramsaur

Exhibit 1

Comparison of our working proposal to the BLE's petition

Sec. 1.01. Prerequisites to Engaging in Practice of Law or Law Business.

No person shall engage in the "practice of law" or the "law business" in Tennessee as defined in T.C.A. § 23-3-101, unless:

(a) he or she has been:

(i) admitted to the bar of the Supreme Court in accordance with Rule 6 and

(ii) issued a license by the Supreme Court in accordance with this Rule and after having been administered the oath in accordance with Rule 6 as set forth in this Rule; or

(b) he or she is practicing in compliance with Tenn. Sup. Ct. R. 8, RPC 5.5(c), Tenn. Sup. Ct. R. 8, RPC 5.5(d), or Tenn. Sup. Ct. R. 19 (pro hac vice); or

~~(cb) he or she has been granted permission to engage in special or limited practice under the provisions of Section 1.07, Section 5.01(g), Section 10.01, or Section 10.04 Article X of this Rule, Tenn. Sup. Ct. R. 8, RPC 5.5(c), 5.5(d)(2), or Tenn. Sup. Ct. R. 19 (pro hac vice).~~

Sec. 5.01 Minimum Requirements for Admission of Persons Admitted in Other Jurisdictions.

(a) **Requirements.** An applicant who meets the requirements of (i) through (vi) of this paragraph may, upon motion, be admitted to the practice of law in this jurisdiction. The applicant shall:

(i) meet the educational requirements imposed by this Rule;

(ii) have been admitted by bar examination to practice law in one or more states, territories, or the District of Columbia;

(iii) have been primarily engaged in the active practice of law in one or more states, territories, or the District of Columbia for five of the seven years immediately preceding the date upon which the application is filed;

(iv) establish that the applicant is currently a member in good standing in all jurisdictions where admitted;

~~(v) establish that the applicant is not currently subject to lawyer discipline or the subject of a pending disciplinary in any other jurisdiction; and~~

(vi) establish that the applicant possesses the character and fitness to practice law in this

jurisdiction.

(b) **Diploma Privilege.** An applicant who was admitted and licensed to practice in another state pursuant to a “diploma privilege” which exempts an applicant from taking a bar examination may seek a waiver of subsection (a)(i) by filing a petition with the Board setting forth the reasons why he or she should be admitted to practice law in Tennessee. The Board shall then conduct a hearing in response to the petition, according to the guidelines set forth in section 13.03, for the purpose of assessing the applicant's reputation, character, knowledge, skills and abilities. After considering the totality of the proof presented, the Board shall make a recommendation to this Court either for approval or denial of the petition or for such other action as the Board may deem appropriate. Any applicant whose petition for waiver of subsection (a)(i) is denied by the Board may file a petition for review in this Court pursuant to the procedures set forth in Article XIV.

(c) **Active Practice of Law.**

(i) For the purposes of this rule, in addition to the definitions of “Practice of Law” and “Law Business” in T.C.A. § 23-3-101, the “active practice of law” shall include the following activities, if performed in a jurisdiction in which the applicant is admitted, or if performed in a jurisdiction that permits such activity by a lawyer not admitted to practice:

- (1) full-time private or public practice as a licensed attorney;
- (2) teaching law full-time at a law school approved by the American Bar Association;
- (3) service as a judicial law clerk; and
- (4) service as a judge.

~~However, in no event shall any activities that were performed pursuant to § 10.04 of this Rule or in advance of bar admission in some state, territory or the District of Columbia be accepted toward the durational requirement.~~

(ii) For the purposes of this rule, in addition to the definitions of “Practice of Law” and “Law Business” in T.C.A. § 23-3-101, the “active practice of law” may be construed in the Board's discretion as being actively engaged in other full-time employment requiring interpretation of law and application of legal knowledge if performed in a jurisdiction in which the applicant is admitted, or if performed in a jurisdiction that permits such activity by a lawyer not admitted to practice; however, in no event shall any activities that were performed pursuant to § 10.04 of this Rule or in advance of bar admission in some state, territory or the District of Columbia be accepted toward the durational requirement. The Board shall consider such evaluative criteria as time devoted to legal work, the nature of the work, whether legal training or a law license was a prerequisite of employment, and other similar matters. ~~Notwithstanding the foregoing, the “active practice of law” is further defined to require that at all times in the durational period the applicant has:~~

- ~~—— (1) held a law license in “active” status;~~

~~(2) spent one thousand (1,000) hours or more per year engaged in the practice of law, for each of the required five years in the durational period; and~~

~~(3) derived at least fifty percent (50%) of non-investment income from the practice of law.~~

(d) Unauthorized Practice of Law. For purposes of this rule, the active practice of law shall not include work that, as undertaken, constituted the unauthorized practice of law in the jurisdiction in which it was performed or in the jurisdiction in which the clients receiving the unauthorized services were located.

(e) Previous Tennessee Bar Examination. An applicant who has failed a bar examination administered in this jurisdiction within five years of the date of filing an application under this Rule shall not be eligible for admission on motion.

(f) Admission on Motion Application and Fees. Any applicant seeking admission on motion to the practice of law in Tennessee shall:

(i) file an application for admission on motion, including character investigation information, in a manner established by the Board, including all required supporting documents;

(ii) submit a certificate of good standing from the highest court of each state to which applicant has been admitted; and

(iii) pay the application fee as established by the Court.

~~(g) Practice prior to Admission; when allowed.~~ An applicant seeking admission on motion to the practice of law in Tennessee shall file the application as provided in paragraph (g) prior to beginning practice in Tennessee and must either:

~~(i) be approved by the Board, complied with Tenn. Sup. Ct. R. 6 for admission to the bar, and completed all licensing requirements; or~~

~~(ii) complied with the provisions of Section 10.04 of this Rule to practice under the supervision of a licensed Tennessee attorney.~~

(g) Practice Pending Admission. A lawyer currently holding an active license to practice law in another U.S. jurisdiction and who has submitted an application for admission upon motion in compliance with this Section 5.01 or an application for examination in compliance with Section 3.03 may provide legal services in this jurisdiction through an office or other systematic and continuous presence during the pendency of their application for admission on motion but for no more than 365 days, provided that the lawyer:

(i) is not disbarred or suspended from practice in any jurisdiction;

(ii) has not been previously been denied admission to practice in this jurisdiction;

(iii) reasonably expects his/her application for admission to be granted;

(iv) notifies the Board of Professional Responsibility in writing within 30 days of first establishing an office or other systematic and continuous presence for the practice of law in this jurisdiction that the lawyer has done so pursuant to the authority in this Section 5.01;

(v) associates with a lawyer who is admitted to practice in Tennessee;

(vi) complies with Tenn. Sup. Ct. R. 8, RPC 7.1 and RPC 7.5 in all communications with the public and clients regarding the nature and scope of the lawyer's practice authority in Tennessee;

(vii) *insert language here about what fee they have to pay*

(viii) does not appear before a tribunal in Tennessee that requires *pro hac vice* admission unless the lawyer is granted such admission;

(ix) has never before practiced in Tennessee pursuant to this provision; and

(x) notifies the Board of Professional Responsibility and the Board if the lawyer becomes the subject of a pending disciplinary investigation in any other jurisdiction at any time during the period of practice authorized under this provision.

(h) Termination of Right of Practice Pending Admission. The right to practice pending admission established by Section 5.01 terminates if the lawyer withdraws the application for admission or if such application is denied; if the lawyer becomes disbarred, suspended, or takes disability inactive status in any other jurisdiction in which the lawyer is licensed to practice law; or if the lawyer fails to timely provide the written notice required by Section 5.01(g)(iv). Upon termination of the right of practice, the lawyer shall not undertake any new representation that would require the lawyer to be admitted to practice law in this jurisdiction and, within 10 days, shall:

(i) cease to occupy an office or other systematic and continuous presence for the practice of law in Tennessee unless authorized to do so pursuant to another Rule;

(ii) notify all clients being represented in pending matters, and opposing counsel or co-counsel of the termination of the lawyer's authority to practice pursuant to Section 5.01; and

(iii) take all other necessary steps to protect the interests of the lawyer's clients.

Sec. 5.02. Additional Considerations.

In determining whether such applicants satisfy the requirements of Section 5.01, the Board shall consider any evidence submitted by the applicant in an effort to demonstrate that the applicant possesses the knowledge, skill and abilities basic to competence in the profession.

ARTICLE X. SPECIAL OR LIMITED PRACTICE

Sec. 10.01. Registration of In-house Counsel

(a) A lawyer admitted to the practice of law in another United States jurisdiction who has a continuous presence in this jurisdiction and is employed pursuant to Tenn. Sup. Ct. R. 8, RPC 5.5(d)(1) as a lawyer by an organization, the business of which is lawful and consists of activities other than the practice of law or the provision of legal services, shall file an application for registration as in-house counsel within 180 days of the commencement of employment as a lawyer or if currently so employed then within 180 days of the effective date of this rule, by submitting to the Board of Law Examiners the following:

- (i) A completed application in the form prescribed by the Board;
- (ii) A fee in the amount set by the Board pursuant to Article XI;
- (iii) Documents proving admission to practice law and current good standing in all jurisdictions in which the lawyer is admitted to practice law; and
- (iv) An affidavit from an officer, director, or general counsel of the employing entity attesting to the lawyer's employment by the entity and the capacity in which the lawyer is so employed, and stating that the employment conforms to the requirements of this rule.

(b) A lawyer registered under this section shall have the rights and privileges otherwise applicable to members of the bar of this jurisdiction with the following restrictions:

- (i) The registered lawyer is authorized to provide legal services to the entity client or its organizational affiliates, including entities that control, are controlled by, or are under common control with the employer, and for employees, officers and directors of such entities, but only on matters directly related to their work for the entity and only to the extent consistent with Tenn. Sup. Ct. R. 8, RPC 1.7; and
- (ii) The registered lawyer shall not:
 - (A) Except as otherwise permitted by the rules of this jurisdiction, appear before a court or any other tribunal as defined in Tenn. Sup. Ct. R. 8, RPC 1(m), or
 - (B) Offer or provide legal services or advice to any person other than as described in paragraph (b)(i), or hold himself or herself out as being authorized to practice law in this jurisdiction other than as described in paragraph (b)(i).

(c) Notwithstanding the provisions of paragraph (b) above, a lawyer registered under this section is authorized to provide pro bono legal services through an established not-for-profit bar association, pro bono program or legal services program or through such organization(s) specifically authorized in this jurisdiction.

(d) A lawyer registered under this section shall:

- (i) Pay all annual fees payable by active members of the bar;
- (ii) Fulfill the continuing legal education requirements that are required of active members of the bar;
- (iii) Report to the Board, within 30 days, the following:

- (A) Termination of the lawyer's employment;
- (B) Whether or not public, any change in the lawyer's license status in another jurisdiction, including by the lawyer's resignation;
- (C) Whether or not public, any disciplinary charge, finding, or sanction concerning the lawyer by any disciplinary authority, court, or other tribunal in any jurisdiction.

(e) A registered lawyer under this section shall be subject to Tenn. Sup. Ct. R. 8 (Rules of Professional Conduct) and all other laws and rules governing lawyers admitted to the active practice of law in this jurisdiction. The Board of Professional Responsibility has and shall retain jurisdiction over the registered lawyer with respect to the conduct of the lawyer in this or another jurisdiction to the same extent as it has over lawyers generally admitted in this jurisdiction.

(f) A registered lawyer's rights and privileges under this section automatically terminate when:

- (i) The lawyer's employment terminates;
- (ii) The lawyer is suspended or disbarred from practice in any jurisdiction or any court or agency before which the lawyer is admitted; or
- (iii) The lawyer fails to maintain active status in at least one jurisdiction.

Upon the occurrence of one or more of the foregoing events, the registered lawyer shall give notice in writing within 30 days to the Board and to the Board of Professional Responsibility.

(g) A registered lawyer whose registration is terminated under paragraph (f)(i) above, may be reinstated within 180 days of termination upon submission to the Board of the following:

- (i) An application for reinstatement in a form prescribed by the Board;
- (ii) A reinstatement fee set by the Board pursuant to Article XI; and
- (iii) An affidavit from the current employing entity as prescribed in paragraph (a)(iv).

(h) A lawyer under this rule who fails to register within 180 days shall be:

- (i) Subject to professional discipline in this jurisdiction;
- (ii) Ineligible for admission pursuant to Article V of this rule;
- (iii) Referred by the Board to the Board of Professional Responsibility; and
- (iv) Referred by the Board to the disciplinary authority of the jurisdictions of licensure.

(i) A lawyer's rendering of services to their employer prior to timely registration under this Rule shall not constitute the unauthorized practice of law or otherwise be treated as violating Tenn. Sup. Ct. R. 8, RPC 5.5 as long as the services are permitted under this Rule for registered lawyers and the lawyer files their application for registration within 180 days of the commencement of their employment.

(j) A lawyer seeking to practice in this State under the authority of Tenn. Sup. Ct. R. 8, RPC 5.5(d)(1) and who complies fully with the requirements of this Rule on or before [180 days from enactment] shall not be barred from registration under this Rule, admission pursuant to Article V of this Rule, or from practicing under the authority of RPC 5.5(d)(1) solely by the fact of prior noncompliance with Tennessee law concerning licensure of in-house counsel.

Sec. 10.04 Law School Graduate Practice before Admission.

(a) Eligibility.

(i) An applicant who is working in Tennessee under supervision by a Tennessee attorney, who meets the educational requirements of Sec. 2.01, and who

(1) has not yet had an opportunity to take the Tennessee bar examination,

(2) has taken the examination but not yet received notification of the results of the examination, or

~~(3) has submitted an application for admission without examination pursuant to Article V, or~~

(3) has taken the examination, but has not yet been admitted as a member of the Tennessee bar, may perform the services described in paragraph (c)(i) of this rule and may register with the Board in order to perform the services described in paragraph (c)(ii) of this rule.

(ii) An applicant is eligible for supervised practice beginning with the submission of the first Application to the Bar of Tennessee with ~~or without~~ examination. The privilege to engage in supervised practice expires on the date of the admissions ceremony for successful examination applicants, grade release for unsuccessful applicants, ~~approval or denial of the application for admission without examination,~~ or issuance of an Order to Show Cause.

~~(iii) An applicant who is licensed in another jurisdiction and seeking admission under Article V must apply for admission prior to beginning practice in Tennessee under this provision and must have met the requirements for being actively engaged in the practice of law prior to beginning practice in Tennessee unless such practice complies with Tenn. Sup. Ct. R. 8, RPC 5.5.~~

~~(iiiiv)~~ Applicants who are unsuccessful on the examination may register for supervised practice for an additional exam cycle.

~~(ivv)~~ The privilege to engage in supervised practice continues for two (2) exam cycles but no longer than eighteen (18) months after the first Application to the Bar of Tennessee.

(b) Registration Process. In order to perform the services described in paragraph (c), the applicant must have submitted to the Board the NCBE application, completed the Tennessee Supplemental application process and paid the fees associated with the application. Additionally,

the applicant must have registered for supervised practice according to the procedures established by the Board and paid the required fee. The registration must include an affidavit from an attorney licensed and in good standing in Tennessee stating that the attorney agrees to undertake the supervision of the applicant in accordance with this Rule.

(c) **Services Permitted.** Under the supervision of a member of the bar of this State, and with the written consent of the person on whose behalf the applicant is acting, an eligible applicant may render the following services:

(i) Applicant may counsel and advise clients, negotiate in the settlement of claims, represent clients in mediation and other nonlitigation matters, and engage in the preparation and drafting of legal instruments. ~~Any such documents prepared by the applicant may be signed with the accompanying designation "Tennessee Bar Applicant" but must also be signed by the supervising member of the bar.~~

(ii) Applicant may appear in the ~~trial courts, courts of review~~ and administrative tribunals of this state, including court-annexed arbitration and mediation, subject to the following qualifications:

(1) Written consent to representation of the person on whose behalf the applicant is acting shall be filed in the case and brought to the attention of the judge or presiding officer.

(2) Appearances, pleadings, motions, and other documents to be filed with the court may be prepared by the applicant and may be signed with the accompanying designation "Tennessee Bar Applicant" but must also be signed by the supervising member of the bar.

(3) In criminal cases, in which the penalty may be imprisonment, in proceedings challenging sentences of imprisonment, and in civil or criminal contempt proceedings, the applicant may participate in pretrial, trial, and post-trial proceedings as an assistant of the supervising member of the bar, who shall be present and responsible for the conduct of the proceedings.

(4) In all other civil and criminal cases in the trial courts or administrative tribunals, the applicant may conduct all pretrial, trial, and post-trial proceedings with the supervising attorney present unless the applicant is permitted by the judge or presiding officer participate without direct supervision.

~~(iii)~~ (5) In matters before appellate courts of review, the applicant may prepare briefs, excerpts from record, abstracts, and other documents. ~~filed in courts of review of the State, which may~~ If any such filings set forth the name of the applicant as a counsel of record in addition to the supervising member of the bar, the name of the applicant must be accompanied by the ~~with the~~

~~accompanying~~ designation "Tennessee Bar Applicant" but must be filed in the name of the supervising member of the bar. Upon motion by the supervising member of the bar, the applicant may request authorization to argue the matter before the appellate court of review but, even i If the applicant is permitted to argue, the supervising member of the bar must be present and responsible for the conduct of the hearing.

(d) **Compensation.** An applicant rendering services authorized by this rule shall not request or accept any compensation from the person for whom applicant renders the services. The supervising attorney may make an appropriate charge ~~at a rate commensurate with the skill and experience of the person performing the services~~ for time expended. The applicant may be compensated as an employee of a firm, agency, clinic or other organization so long as the rate of such compensation is established independent of compensation paid for representation.

(e) Any applicant who otherwise meets all the qualifications contemplated in this Rule, but who is unable to make a connection or association with a practicing attorney for purposes of serving as a supervising attorney as required by this Rule may make application to any trial judge holding court in the county of such applicant's residence for aid in the establishment of a supervised practice under this Rule. Trial judges are admonished that such practice must accord strictly with the provisions of this Rule. No deviation will be permitted.

Exhibit 2

Temporary Admission of a Military Spouse Rules of the Supreme Court of the State of Tennessee

Rule 7. Licensing of Attorneys

Section 1.07. Temporary Admission of a ~~Military~~ Spouse of a Military Servicemember

(a) Qualifications. An applicant who is the spouse of an active servicemember of the United States Uniformed Services as defined by the United States Department of Defense may be temporarily admitted as a member of the Bar of this Court ~~an attorney of this State~~, without examination, provided that the applicant:

- (1) has been admitted and licensed to practice law, after examination, ~~in as an attorney of another state, commonwealth, or territory~~ of the United States or in the District of Columbia with educational qualifications for admission to the bar equivalent to those of this State; and
- (2) possesses the moral character and fitness required of all applicants for admission in this State; and
- (3) has not failed the Tennessee bar examination; and
- (4) resides in Tennessee or Fort Campbell, Kentucky, due to the servicemember's military orders; and

(5) is at the time of application an active member of the bar in good standing in at least one jurisdiction of the United States; and

(6) is a member of the bar in good standing in every jurisdiction to which the applicant has been admitted to practice, or has resigned or been administratively revoked while in good standing from every jurisdiction without any pending or later disciplinary actions.

(b) Application for Temporary Admission. An application for temporary admission shall be made, without fee required, to the Board of Law Examiners, in accordance with its rules. Upon receipt of an application for temporary admission, the Board of Law Examiners shall expeditiously determine whether the applicant meets each of the requirements set forth in paragraph (a) of this Section, and present the application to the Clerk of the Supreme Court for appropriate disposition. In addition to the completed application, the applicant must submit:

(1) a completed character questionnaire; and

(2) a copy of the Applicant's Military Spouse Dependent Identification; and

(3) documentation evidencing a spousal relationship with the servicemember; and

(4) a copy of the servicemember's military orders to a military installation in Tennessee or Fort Campbell, Kentucky, or a letter from the servicemember's command verifying that the requirement in paragraph (a)(4) is met; and

(5) Certificate(s) of Good Standing and of Disciplinary History(ies) to demonstrate satisfaction of the requirements of (a)(6) of this rule; and

(6) all other documentation as required in the character application process by the Board of Law Examiners.

(c) Duration and Extension.

(1) A temporary license to practice law issued under this rule will be valid for ~~two~~three ~~one~~ years and will terminate as set forth in paragraph (e) below. ~~Holders of a temporary license have an affirmative duty to immediately notify the Board of Law Examiners within thirty (30) days upon occurrence of any event in paragraph (e)(5)-(8) which will cause the temporary license to expire.~~

(2) Persons who hold a temporary license under this provision may apply, without additional fee, for a ~~two~~one-year extension to their license if they submit an application for extension verifying that they continue to meet all of the qualifications for a temporary license as set forth in paragraph (a) ~~and (b)~~ above. Requests for extension must be submitted to the Board of Law Examiners at least one month prior to the expiration of the temporary license ~~and must include a copy of the servicemember's military orders or a letter from the servicemember's command verifying that the requirement in paragraph (a)(4) is met.~~ Requests for extension must be approved by the Board of Law Examiners and approved by the Supreme Court to be effective.

(d) Practice Requirements. During the duration of the temporary license, the temporary attorney shall: (1) comply with the Rules of the Supreme Court of the State of Tennessee; (2) comply with the registration requirements as required for all Tennessee licensed attorneys; ~~and~~ (3) make payment of annual ~~fees assessments~~ as required of all Tennessee licensed attorneys; ~~and give notice to their clients, in writing, regarding the special, temporary nature of their admission.~~

(e) Termination. The temporary license shall expire:

(1) upon the temporary attorney's failure to meet any licensing requirements applicable to all active attorneys possessing a license to practice law in this state; or

(2) upon the request of the temporary attorney; or

(3) upon the issuance to the temporary attorney of a Tennessee license under Article III (by examination) or Article V (by comity admission) of these rules; or

(4) upon receipt by the temporary attorney of a failing score on the Tennessee bar examination; or

(5) upon suspension, disbarment or other action affecting their good standing with the bar of this State,

~~(5) sixty days months following the date of permanent relocation of the servicemember outside of Tennessee or Fort Campbell, Kentucky, except when such relocation is due to unaccompanied orders for a permanent change of station outside of Tennessee; or~~

~~(6) sixty days months following the date of termination of the temporary attorney's spousal relationship to the servicemember; or~~

~~(7) if the temporary attorney ceases to reside in Tennessee or Fort Campbell, sixty days months following the date when the temporary attorney ceased to reside in Tennessee or Fort Campbell; or~~

~~(8) sixty days~~ months following the date of the servicemembers's death, separation or retirement from the United States Uniformed Services; or

~~(8) one year~~ following the date of the event of the servicemember's death, separation or retirement from the United States Uniformed Services, or divorce or marital separation from the servicemember, provided that during the first ~~sixty days~~ months following the date of such event the temporary attorney applies to sit for the Tennessee bar examination.

Exhibit 3

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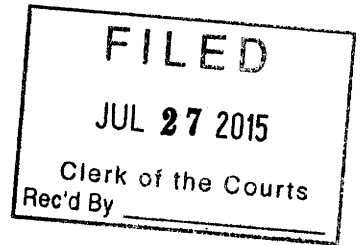
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IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

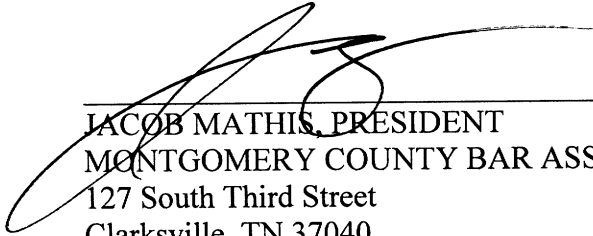


**IN RE: AMENDMENT OF RULES 6, 7, AND 8 (RPC 5.5),
RULES OF THE TENNESSEE SUPREME COURT**

No. ADMIN2015-00443

NOTICE OF FILING

Comes now the Montgomery County Bar Association and submits the attached Resolution in Opposition of Proposed Rule Change for Licensing of Military Spouse Attorneys as a written comment to the proposed Rule change.



JACOB MATHIS, PRESIDENT
MONTGOMERY COUNTY BAR ASSOCIATION
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FILED

JUL 27 2015

Clerk of the Courts

RESOLUTION IN OPPOSITION OF PROPOSED RULE CHANGE FOR

LICENSING OF MILITARY SPOUSE ATTORNEYS

BE IT RESOLVED that the Montgomery County Bar Association Board of Directors hereby adopts this Resolution in opposition of the proposed rule change for the temporary licensing of attorney spouses of military service members currently pending public comment to The Supreme Court of Tennessee. The proposed rule change would amend various provisions of Tennessee Supreme Court Rules 6, 7, and 8, and more specifically Rule 8, RPC 5.5, which govern admission and licensing of attorneys.

Due to our proximity to the U.S. Army Base at Ft. Campbell, Kentucky, and therefore, most likely affected by the proposed rule change, the Montgomery County Bar Association opposes the current proposed rule change for the TEMPORARY ADMISSION OF A MILITARY SPOUSE. The Montgomery County Bar Association recognizes the need to protect the citizens of the State of Tennessee and feels the current proposal lacks the oversight necessary to effectively supervise those that could use this rule to gain admission if the current proposal is granted.

While the Montgomery County Bar Association recognizes that military spouse attorneys face significant barriers to admission when their service member is assigned for duty in Tennessee and they are not licensed to practice in this state, this rule change would allow temporary admission with no oversight requirements from traditionally licensed attorneys which may detrimentally effect the high standards of the legal community within our state. The Montgomery County Bar Association urges the rejection of the proposed rule and/or suggests modifying the proposal to mirror the current similar proposal to amend the Rules of the Supreme Court of Kentucky (a copy of which is attached hereto), which requires any attorney temporarily

admitted to practice under this rule to work under the supervision and direction of local counsel. As with traditional Pro Hac Vice admissions, such a requirement would insure that clients have assistance from an attorney with a working knowledge of Tennessee state law.

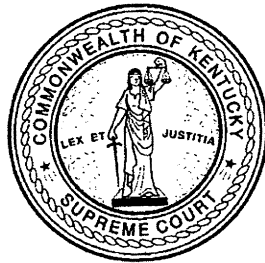
In rejecting the proposed rule changes the Supreme Court of Tennessee will prevent attorneys who are unfamiliar with and untrained regarding Tennessee state law from practicing in this State without property supervision and oversight, effectively protecting the citizens of the State of Tennessee.

ADOPTED: June 4, 2015.



JACOB MATHIS, PRESIDENT
MONTGOMERY COUNTY BAR ASSOCIATION

Supreme Court of Kentucky



PROPOSED AMENDMENTS TO THE RULES OF THE SUPREME COURT (SCR)

The following Proposed Rules Amendments will be considered in an open session beginning at 8:30 a.m. on Wednesday, June 17, 2015. The hearing will be conducted in the Bluegrass Ballroom at the Lexington Convention Center in Lexington.

These proposals have been submitted by practitioners for consideration by the Justices of the Supreme Court of Kentucky.

I. **SCR 2.018 Application [packets] Process**

The proposed amendments to the title of SCR 2.018:

II. **SCR 2.113 Military Spouse Provisional Admission.**

The proposed new rule SCR 2.113 would read:

1. Requirements. A person who meets all requirements of subparagraphs (a) through (m) of paragraph 2 of this Rule may, upon motion, be provisionally admitted to the practice of law in Kentucky.

2. Required Evidence. The applicant for provisional admission shall submit evidence satisfactory to the Kentucky Board of Bar Examiners that he or she:

(a) has been admitted by examination to practice law before the court of last resort of any state or territory of the United States or of the District of Columbia;

(b) holds a Juris Doctor degree from a law school accredited by the American Bar Association at the time of such applicant's graduation;

(c) has achieved a passing score on the Multistate Professional Responsibility Examination as it is established in Kentucky at the

time of application;

(d) is currently an active member in good standing in at least one state or territory of the United States, or the District of Columbia, where the applicant is admitted to the unrestricted practice of law, and is a member in good standing in all jurisdictions where the applicant has been admitted;

(e) is not currently subject to lawyer discipline or the subject of a pending disciplinary matter in any other jurisdiction;

(f) possesses the good character and fitness to practice law in Kentucky;

(g) is the dependent spouse of an active duty service member of the United States Uniformed Services as defined by the Department of Defense (or, for the Coast Guard when it is not operating as a service in the Navy, by the Department of Homeland Security) and that the service member is on military orders stationed in the Commonwealth of Kentucky;

(h) is physically residing in Kentucky;

(i) has submitted all requested character investigation information, in a manner and to the extent established by the Board of Bar Examiners, including all required supporting documents;

(i) has never failed the Kentucky Bar Examination;

(k) has completed twelve (12) hours of instruction approved by the Kentucky Continuing Legal Education Board on Kentucky substantive and/or procedural law, including four (4) hours of ethics, within the six-month period immediately preceding or following the filing of the applicant's application;

(l) certifies that he or she has read and is familiar with the Kentucky Rules of Professional Conduct; and

(m) has paid such fees as may be set by the Board of Bar Examiners to cover the costs of the character and fitness investigation and the processing of the application.

3. Issuance, Duration and Renewal.

(a) The Board of Bar Examiners having certified that all prerequisites have been complied with, the applicant for provisional admission shall, upon payment of applicable dues and completion of the other membership obligations, become an active member of the Kentucky Bar Association. An attorney provisionally admitted pursuant to this Rule shall be subject to the same membership obligations as other active members of the Kentucky Bar Association, and all legal services provided in Kentucky by a lawyer admitted pursuant to this Rule shall be deemed the practice of law and shall subject the attorney to all rules governing the practice of law in Kentucky, including the Kentucky Rules of Professional Conduct.

(b) A provisional admission may be renewed by July 31 of each year, upon filing with the Kentucky Bar Association (i) a written request for renewal, (ii) an affidavit by supervising Local Counsel, who certifies to the provisionally admitted attorney's continuing employment by or association with Local Counsel and to Local Counsel's adherence to the supervision requirements as provided under this Rule, and (iii) compliance with the membership obligations of the Rules of the Supreme Court of Kentucky applicable to active members of the Kentucky Bar Association.

(c) When the active duty service member is assigned to an unaccompanied or remote follow-on assignment and the attorney continues to physically reside in Kentucky, the provisional admission may be renewed until that unaccompanied or remote assignment ends, provided that the attorney complies with the other requirements for renewal.

4. Supervision of Local Counsel. A person provisionally admitted to practice under this Rule may engage in the practice of law in this jurisdiction only under the supervision and direction of Local Counsel.

(a) As used in this Rule, Local Counsel means an active member in good standing of the Kentucky Bar Association, whose office is in Kentucky.

(b) Local Counsel must provide to the Kentucky Bar Association his or her Kentucky Bar number, physical office address, mailing address, email address, telephone number, and written consent to serve as Local Counsel, on the form provided by the Board of Bar Examiners.

(c) Unless specifically excused from attendance by the trial judge, Local Counsel shall personally appear with the provisionally admitted attorney on all matters before the court.

(d) Local Counsel will be responsible to the courts, the Kentucky Bar Association, the Supreme Court of Kentucky, and the client for all

services provided by the provisionally admitted attorney pursuant to this Rule.

(e) Local Counsel is obligated to notify the Executive Director of the Kentucky Bar Association when the supervising relationship between the provisionally admitted attorney and Local Counsel is terminated.

5. Events of Termination. An attorney's provisional admission to practice law pursuant to this Rule shall immediately terminate and the attorney shall immediately cease all activities under this Rule upon the occurrence of any of the following:

(a) The spouse's discharge, separation or retirement from active duty in the United States Uniformed Services, or the spouse's no longer being on military orders stationed in the Commonwealth of Kentucky, except as provided in section 3(c) of this Rule.

(b) Failure to meet the annual licensing requirements of an active member of the Kentucky Bar Association;

(c) The absence of supervision by Local Counsel;

(d) The attorney no longer physically residing within the Commonwealth of Kentucky;

(e) The attorney ceasing to be a dependent as defined by the Department of Defense (or, for the Coast Guard when it is not operating as a service in the Navy, by the Department of Homeland Security) on the spouse's official military orders;

(f) The attorney being admitted to practice law in this Commonwealth under an admissions rule other than that of Provisional Admission;

(g) The attorney receiving a failing score on the Kentucky Bar Examination;

(h) The attorney being suspended from the practice of law in Kentucky; or

(i) Request by the attorney.

6. Notices Required.

(a) An attorney provisionally admitted under this Rule shall provide written notice to the Kentucky Bar Association of any Event of Termination within thirty (30) days of the occurrence thereof.

(b) Within thirty (30) days of the occurrence of any Event of Termination, the attorney shall:

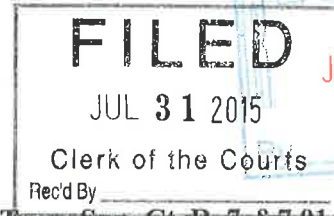
(i) provide written notice to all his or her clients that he or she can no longer represent such clients and furnish proof to the Executive Director of the Kentucky Bar Association within sixty (60) days of such notification; and

(ii) file in each matter pending before any court or tribunal in this Commonwealth a notice that the attorney will no longer be involved in the matter, which shall include the substitution of the Local Counsel, or such other attorney licensed to practice law in Kentucky selected by the client, as counsel in the place of the provisionally admitted attorney.

7. Benefits and Responsibilities. An attorney provisionally admitted under this Rule shall be entitled to the benefits and be subject to all responsibilities and obligations of active members of the Kentucky Bar Association, and shall be subject to the jurisdiction of the

July 30, 2015

James Hivner, Clerk
100 Supreme Court Building
401 7th Avenue North
Nashville, TN 37219-1407



Re: Comment Concerning Proposal to Amend Tenn. Sup. Ct. R. 7, § 7.01

**IN RE AMENDMENT OF RULES 6, 7, AND 8 (RPC 5.5), RULES OF THE
TENNESSEE SUPREME COURT, No. ADMIN2015-00443**

Dear Mr. Hivner:

I write to comment on the amendments to Rule 7, § 7.01, “Foreign-Educated Applicants,” proposed by the Tennessee Board of Law Examiners (the “Board.”) To summarize my concerns, the proposed § 7.01 amendments:

- (1) conflict with the Board’s proposed amendment to § 2.02(d) and the educational judgments of the American Bar Association (“ABA”) and law deans, upon which the Board otherwise relies in its proposals, by prohibiting on-line and in-person distance learning;
- (2) will weaken the current 24 credit-hour requirement for all foreign-educated applicants, while arbitrarily excluding some of the most promising foreign-educated applicants; and
- (3) are redundant given the existing provisions of § 7.01, and § 7.01(b)(i) contains an inadvertent but potentially confusing drafting error.

I write as Dean of Handong International Law School (“HILS”), which is located in South Korea, based on my twelve years of experience here in international U.S. legal education.¹ No other law school outside the U.S. focuses exclusively on teaching U.S. law under conditions and

¹With respect to my personal background, I received degrees from Yale University, B.A., and Washington University, J.D.; clerked for the Hon. Richard S. Arnold, U.S. Court of Appeals for the Eighth Circuit; became a member of the Missouri and Illinois bars, and practiced international intellectual property law in St. Louis, Missouri, at Blackwell Sanders Peper Martin LLP, before joining HILS in South Korea.

requirements that are “substantially equivalent” to those at an ABA-approved law school, e.g., 3-year residence, comprehensive U.S. common-law and practical skills curriculum, all U.S.-lawyer faculty, exclusively taught in English, Socratic method, U.S. casebooks, etc. This equivalence is part of what the current § 7.01 already requires for foreign-educated applicants. Although the ABA will not consider foreign law schools for ABA approval, the boards of bar examiners in Alabama, California, Missouri and Tennessee have all found that HILS offers the substantial equivalent of a U.S. ABA-approved J.D. education and, thus, upheld HILS graduates’ qualification to become members of their respective bars. (HILS J.D., despite its focus on U.S. law, has also been recognized in India and Pakistan as qualifying graduates to become members of their common-law bars.) In the case of Tennessee, the Tennessee Board of Law Examiners has itself determined the equivalence of a HILS J.D. to an ABA-approved J.D. approximately one hundred times, from 2005 to 2010, when HILS graduates successfully applied to sit for the Tennessee bar examination on the basis of the former § 7.01.

I also write for the 89 HILS alumni who became members of the Tennessee Bar during those years. They were all admitted to the Tennessee bar upon examination and based on the Board’s finding that a HILS J.D. legal education was “substantially equivalent” to a U.S. ABA-approved law school. These 89 have worked in internationally prominent corporations as in-house counsel (Samsung; SK; Posco; LG; Kumho; EASports, Blizzard Entertainment), law firms (Paul Hastings; Clifford Chance; Kim & Chang), and in other positions, both governmental and private (e.g., elected to the Seoul City Council; Researcher Korea Supreme Court; Judge Advocates Office of the 8th U.S. Army in Korea; Korea Commercial Arbitration Board; Korea Institute of Intellectual Property; Korea Broadcast Advertising Corporation; Samil Pricewaterhouse-Coopers.) The majority work in NGOs, law firms and human rights organizations that are less well known internationally, and many are doing extremely important work to spread American common-law concepts of justice, human rights and the rule of law in countries with limited legal institutions. All currently work outside Tennessee. Wherever they work – currently in countries including China, Korea, India, Pakistan and Vietnam – they serve as conduits between Tennessee, the United States and the world.

Neither the Board nor anyone else has ever suggested that these Tennessee lawyers and HILS alumni are anything other than competent professionals who represent the Tennessee bar well wherever they work, and no one has suggested, much less offered this Court any facts, supporting the conclusion that the Board’s and this Court’s experience with licensing HILS graduates has been the slightest bit problematic, in any way. These HILS graduates are proud to be Tennessee lawyers, and this Court and the Board should be proud to have them as Tennessee lawyers. Unfortunately, as I will discuss below the Board’s proposed amendments will make it far less likely that persons like these again can sit for the Tennessee bar, despite the substantial equivalence of their legal education with a U.S. J.D..

Without Amendment, Rule 7, § 7.01, Already Sets A Demanding Standard Which Few Foreign-Educated Applicants Can Meet

Currently, this Court's Rule 7, § 7.01, requires foreign-educated applicants for the Tennessee bar examination to prove both that they received the substantial equivalent of an ABA-approved J.D. education abroad and that they have "successfully completed at least 24 semester hours in residence at a law school approved by the American Bar Association." As already mentioned, the first requirement alone rules out most foreign-educated applicants. Outside of HILS, there are very few schools whose legal education even attempts to meet ABA curricular standards and thus to qualify an applicant under the "substantial equivalence" requirement. Very few schools outside the U.S. offer a three-year U.S. law curriculum in English, much less have the kind of faculty, U.S. law library and other facilities equivalent to those required by ABA Standards.

While applicants must first establish that they attended a foreign U.S.-style law school that was substantially equivalent to an ABA-approved school in curriculum and method, this is not enough to meet Tennessee's current standard. Additionally, they must demonstrate that, in the course of their substantially-equivalent education or thereafter, they earned at least 24 hours from an ABA-approved law school or from a Tennessee law school approved under § 2.03 of this Court's Rule 7.

In sum, the current § 7.01 is very demanding and adequate. I turn now to my three concerns about the conflicts, weakening effect and redundancies which would result from the Board's proposed amendments to § 7.01.

1) The Board's Proposed Changes to § 7.01 Conflict With Its Proposed § 2.02(d) and the Educational Judgment of the American Bar Association.

The Board's proposed amendments to § 7.01 would alter the 24 ABA credit-hour requirement, *inter alia*, so that applicants may not qualify by participating in an ABA-approved law school's off-site and distance classes. As discussed below, the ABA, along with the Law Deans advising the Board, otherwise recommend such off-site classes. The ABA, the Law Deans and even the Board itself recognize the educational value of off-site and distance learning but would prohibit it only for foreign-educated applicants. Under the Board's proposal, foreign-educated applicants' classes must be:

[Proposed § 7.01(b)(iii)] ... in the United States or its territories and must be attended on site at the ABA accredited or Tennessee approved law school."²

The Board proposes this because many ABA schools currently offer distance learning and off-site classes to all their students, domestic and foreign. Foreign-educated applicants, accordingly, can currently fulfill their 24-hour requirement without financially

² See Exhibit A, p. 31, Tennessee Board of Law Examiners' Petition to Amend Tennessee Supreme Court Rules 6,7, and 8, (RPC 5.5) Governing Admission and Licensing of Attorneys ("Board Petition").

impossible travel or relocation to the U.S.³ As discussed below, because the Board otherwise recognizes the equal educational value of such off-site distance-learning classes, its proposed § 7.01(b)(iii) cannot be justified by a concern about the educational value of off-site classes. It can only be based on the mistaken presumption that foreign-educated applicants cannot benefit from the same educational methods as those students (including those with foreign educational and cultural backgrounds) being educated while living in the United States or its territories. This is adequate cause to reject it.

Additionally, proposed § 7.01(b)(iii)'s prohibition on off-site learning conflicts in policy and rule with the Board's proposed § 2.02(d), which specifically approves "distance" education and is intended to "be applicable to all law school education."⁴ The Board proposes that the currently independent section, § 2.04, which bans correspondence courses, be moved to § 2.02(d) and heavily amended in light of new ABA Standards favoring more interactive, contemporary forms of off-site and distance education:

[Proposed § 2.02](d) No Correspondence Course. No correspondence course will be accepted by the Board as any part of an applicant's legal education to meet the requirements of this rule. **Distance, on-line or other instruction that is not in person will be accepted as part of a curriculum to the extent approved by the American Bar Association for accredited law schools.**⁵ (emphasis added)

The proposed § 7.01(b)(iii) clearly conflicts with this rule: proposed § 2.02(d) would permit "distance, on-line and other instruction that is not in person" but proposed § 7.01(b)(iii) would prohibit it, requiring all classes to be "on site" at the ABA-accredited law school. Again, proposed § 2.02(d) is intended to "be applicable to all law school education" and allows off-site instruction "as part of a curriculum" because the ABA has recognized that it is an important part of legal education. On the other hand, § 7.01(b)(iii) would reject it as part of a curriculum for foreign-educated applicants who most need the kind of practical and flexible course offerings made available through off-site education.

There is also a conflict in policy. As the Board noted in its "Reason for Changes" section explaining the proposed § 2.02(d), "The last sentence regarding other than in-person learning is

³ In the interest of full disclosure, litigation concerning this question and the sufficiency of a HILS J.D. in connection with 24 distance and off-site in-person ABA credits under existing Rule 7 is now pending before the Tennessee Supreme Court on a writ of certiorari. (See *Chong v. Tennessee Board of Law Examiners*, No. M2015-00982-SC-BAR-BLE (Tenn.)) The issue addressed in that litigation relates to the proposed amendment in that adoption of the proposed amendment would decisively prohibit HILS graduates from sitting for the Tennessee Bar Examination.

⁴ Board Petition, p. 4-5. N.B. the reference is to the Petition itself rather than to the accompanying proposed text comprising the Petition's Exhibit A.

⁵ Board Petition, Exhibit A, p. 5.

new and follows a recommendation from Law School Deans.”⁶ The “Law School Deans” advising the Board recommend distance, on-line and other off-site learning because their equal educational value is well established; the ABA has long allowed them.

More recently, the ABA has mandated some off-site learning. The ABA’s new Standard 303 (“Curriculum”) mandates that all ABA-approved law schools require every J.D. student to take six credit hours of “experiential courses,” designed to give an experience of legal practice, including either a “simulation course, law clinic or field placement.” 303(a)(3). By nature, these classes tend to be off-site classes. But, under the Board’s proposed § 7.01(b)(iii) no foreign-educated applicant would allowed to participate in these ABA mandated classes because they would be off-site. The ABA has recently amended a number of other Standards to permit and encourage more off-site educational opportunities, including more on-line distance learning, which has long been allowed but is being expanded in scope. *See*, ABA Standards 305(a) (“Field Placement and Other Study Outside the Classroom”); Standard 306 (“Distance Education”), Standard 307 (“Studies, Activities and Field Placements Outside the United States”)(all allowing off-site class instruction).⁷ (The full text of these ABA Standards is attached hereto as Appendix 1.)

In sum, the proposed § 7.01(b)(iii) conflicts with the authoritative recognition of the value of distance learning and off-site classes by the ABA, the Law Schools Dean advising the Board, and even the Board itself in proposing § 2.02(d). Even though such classes have recognized educational value, the Board would not recognize such courses if taken by foreign applicants. Quite apart from its arbitrary and unjust effect on those who cannot afford to live in the United States, the proposed § 7.01(b)(iii) would also mean that a foreign-educated applicant who moved to the U.S. could not take the very off-site courses that the ABA recently mandated for all U.S. J.D. students. If off-site experiential courses are important enough to require all U.S. J.D. students to earn six credit hours of field placement, clinic or simulations courses, it would be irrational to deny such off-site courses to foreign-educated applicants. This is precisely the perverse effect of the Board’s proposed § 7.01(b)(iii), which seems to aim more to treat foreign applicants differently than to ensure the quality of applicants.

2) Proposed § 7.01(b) Will Weaken the Current 24 Credit-Hour Requirement While Arbitrarily Excluding Some of the Most Promising But Poorer Foreign Students.

In addition to the “on-site” requirement, the Board also proposes to replace the current requirement of 24 credit hours from an ABA-approved law school with the requirement of an

⁶ Id.

⁷They may also be accessed on line at: http://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/council_reports_and_resolutions/201406_revised_standards_clean_copy.authcheckdam.pdf

“LL.M. Degree for the Practice of Law in the United States.”¹⁰ The Board’s stated reason for this proposal is somewhat obscure:

Changes requiring an LL.M. rather than a stated number of credit hours in an LL.M. program and requiring the program to be taught in English in the United States removes any doubt as to the intent of the Board in proposing this revision to the Court.¹¹

Actually, the Board’s intent is unclear. The provision is presented as if it will strengthen the legal-educational requirements for foreign-educated applicants. But the actual effect of replacing the current requirement with an LL.M. degree is to weaken the requirements.

First, LL.M. degrees at ABA-approved law schools can be granted with fewer than 24 hours of credits. For example, both Harvard and UCLA Law School’s LL.M. programs require only 22 hours.¹² Second, for an applicant who has already had three-years of ABA-equivalent U.S. legal education, studying the basics of U.S. law again in an “LL.M. Degree for the Practice of Law in the United States” would be wasteful and easy. Such LL.M. programs are designed for applicants who have studied the law of a foreign country, not for someone who has not had the substantial equivalent of a U.S. J.D. already. By requiring applicants to enter such a program on top of doing the substantial equivalent of a U.S. J.D. abroad, the Board would not be ensuring superior legal education but mere repetition at best. Moreover, by requiring a U.S. J.D. equivalent abroad and then restricting the applicant to repetitive studies in the U.S., the applicant is denied the chance to delve more deeply into U.S. legal subjects or to work on advanced legal skills courses.

Third, unlike the regular law school classes taken as a visiting student, LL.M. program students are often shepherded into different curricula which can be tailored to focus on more basic subjects. Many LL.M. programs have classes specially designed only to be taken by visiting foreign students. It is hardly clear that these classes are more demanding than regular law school classes or that they have any educational advantage over taking regular classes as a visiting student. The only certain effect of requiring an LL.M. degree is to increase cost. The cost of a degree program is generally significantly higher than the cost of taking credit hours. Indeed,

¹⁰ Proposed § 7.01(b), Board Petition, Exhibit A, p. 31.

¹¹ *Id.* at 32.

¹² Harvard LL.M. Degree Requirements (“All students must satisfactorily complete a minimum of 22 credit hours....”) <http://www.law.harvard.edu/academics/degrees/gradprogram/llm/ll.m.-degree-requirements.html>; U.C.L.A. LL.M. Degree Requirements (“Twenty-two (22) units of credit, over two semesters, are required to obtain the LL.M. degree.”) <https://law.ucla.edu/llm-sjd/llm-program/degree-requirements/>.

today, many have alleged that LL.M. programs are being widely and aggressively touted by ABA-approved law schools to foreign students as a supplemental source of funding.¹³

Accordingly, the proposed change from 24 credit hours to an LL.M. degree will not ensure better prepared foreign applicants. But it will ensure that the applicants are wealthier. It will exclude many capable but poor students and block from U.S. legal education those who most need it. In my experience assisting students from countries where religious minorities are persecuted, the wealthier students who have the easiest access to U.S. legal education are the least likely to be found among the oppressed minorities. Consequently, those who could most benefit from a U.S. legal education (since they are denied access to legal education in their home countries) will most likely be shut out.

Studying in the United States for one year is already beyond the financial means of almost all foreign students. By requiring an LL.M. degree and relocation to the U.S., the Board's proposed amendments will raise the financial costs of qualifying for the Tennessee bar beyond the means of all but the richest foreign applicants. Travel and living costs in the U.S. will be added on top of the current tuition requirements. Simply by increasing cost, the proposal will block talented foreign students of limited financial means who tend particularly to come from developing countries or countries with active religious or ethnic discrimination who most need access to U.S. legal education. These poorer students are often precisely the students most in need of legal education to work for the rule of law and human rights. It also will block students with local marital or familial commitments, who tend to be predominantly female students.

This might be justified if gaining an LL.M. degree with fewer required hours was connected with better qualifications than simply requiring 24 ABA credit hours. But it is arbitrary and unfair to require foreign students to travel to the United States to carry out studies that the Board and the ABA otherwise agree could be as well carried out via distance learning or through off-site in-person instruction, e.g. by having ABA faculty travel to a well-appointed facility abroad or having them manage a legal clinic or other experiential learning abroad. The Board's proposed rule change will ensure only that wealthier but not better foreign students qualify to take the Tennessee Bar Examination.

3) The On-Site and LL.M. Amendments Are Redundant Given the Other Provisions of § 7.01

¹³ For example, Prof. William Henderson notes that law schools are turning to LL.M. programs to deal with financial difficulties in his review of *The Lawyer Bubble: A Profession in Crisis*. See Henderson, Letting Go of Old Ideas, 112 Mich. Law Review 1111, 1112, fn 9 (2014): "Bryce Stucki, LLM: Lawyers Losing Money, Am. Prospect (May 8, 2013), <http://prospect.org/article/llm-lawyers-losing-money> (discussing the "unregulated wasteland" of LLM degrees, which are being used to prop up law school finances, in large measure because the ABA does not require any meaningful consumer information to help assess the value of LLM degrees (quoting Professor Caron) (internal quotation marks omitted))."

If there is really a concern that foreign-trained applicants are not receiving a legal education “substantially equivalent” to that at an ABA-approved institution, there is ready, tested mechanism already available to the Board to address that concern. Section 7.01 already requires the applicant to “satisfy the Board” that he has a legal education “substantially equivalent” to that received at an ABA-accredited law school. The Board rightly can use this provision to require applicants to provide sufficient documentary or testamentary evidence of “substantial equivalence.” HILS, for example, has welcomed expert inspections by ABA accreditors and provided voluminous documentary, expert, video and personal testimony about its equivalence on other occasions. If an applicant can assure the Board that he has received a three-year U.S. common-law education, equivalent to that at an ABA-approved school with 24 credit hours from an ABA-approved school, this must satisfy any concern about educational qualification.

The Board’s proposed change to § 7.01(a) would add another tool. The Board proposes to add the following sentence at the end of proposed § 7.01(a):

Applicants shall furnish such additional information as may be required by the Board to enable the Board to determine the applicant’s eligibility for such admission.¹⁴

The Board explains in its “Reason for Changes” that:

The additional sentence in § 7.01 allows the Board to require applicants to furnish educational equivalency computations from one of several nationally-recognized sources to ensure that educational equivalency requirements are being met.¹⁵

Although I cannot see why the current § 7.01 does not already authorize this, this provision should be adopted. HILS has dealt with several of these sources. World Education Services, wes.org, which is among the service used by the California bar to judge equivalence, is typical. They are experts in international education. They have the time and the expertise to judge equivalence. The cost of the analysis is entirely borne by the applicant so it doesn’t place any further burden on the Board. But the sufficiency of these independent accreditors again points out the redundancy of the limitations on distance learning and off-site education. Since the Board recognizes that there are reliable experts who can certify equivalence at the applicants’ cost, it would be unnecessary to make the other changes proposed by the Board.

Conclusion: Reject All Amendments to §7.01, Or At Least Remove the Most Damaging and Contradictory Proposed Amendment, Proposed §7.01(b)(iii)

For these three reasons, I would respectfully request that the proposed amendments to §7.01 be entirely rejected. In the alternative, the amendments should be modified with respect to the most

¹⁴ Proposed § 7.01(a), last sentence, Board Petition, Exhibit A, p. 31.

¹⁵ Id. at 32.

contradictory and problematic, §7.01(b)(iii), so as to strike all restrictions on the well-proven and ABA-approved distance or off-site educational methods, and thus to read:

(iii) An LL.M. for the Practice of Law in the United States must be taught in English ~~and in the United States or its territories and must be attended on-site at the ABA accredited or Tennessee approved law school.~~ The program may be full or part-time but, if part time, the LL.M. must be completed within 36 months.

I also would draw to attention to an inadvertent drafting error, which regardless of other considerations should be noted. In proposed §7.01(b)(i) in the last sentence, the phrase “The degree program certifies ... the foreign-educated lawyer received his or her legal educations from a law school” almost certainly was intended to read “legal education” since the plural suggests that the foreign education had to be ABA-approved as well, which is impossible.

Respectfully Submitted,



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Appendix 1: ABA Standards

Standard 303. CURRICULUM

(a) A law school shall offer a curriculum that requires each student to satisfactorily complete at least the following: (1) one course of at least two credit hours in professional responsibility that includes substantial instruction in the history, goals, structure, values, and responsibilities of the legal profession and its members; (2) one writing experience in the first year and at least one additional writing experience after the first year, both of which are faculty supervised; and (3) one or more experiential course(s) totaling at least six credit hours. An experiential course must be a simulation course, a law clinic, or a field placement. To satisfy this requirement, a course must be primarily experiential in nature and must: (i) integrate doctrine, theory, skills, and legal ethics, and engage students in performance of one or more of the professional skills identified in Standard 302; (ii) develop the concepts underlying the professional skills being taught; (iii) provide multiple opportunities for performance; and (iv) provide opportunities for self-evaluation.

(b) A law school shall provide substantial opportunities to students for: (1) law clinics or field placement(s); and (2) student participation in pro bono legal services, including law-related public service activities.

Standard 305. FIELD PLACEMENTS AND OTHER STUDY OUTSIDE THE CLASSROOM

(a) A law school may grant credit toward the J.D. degree for courses that involve student participation in studies or activities in a format that does not involve attendance at regularly scheduled class sessions, including courses approved as part of a field placement program, moot court, law review, and directed research.

(b) Credit granted for such a course shall be commensurate with the time and effort required and the anticipated quality of the educational experience of the student.

(c) Each student's educational achievement in such a course shall be evaluated by a faculty member. When appropriate a school may use faculty members from other law schools to supervise or assist in the supervision or review of a field placement program.

(d) The studies or activities shall be approved in advance and periodically reviewed following the school's established procedures for approval of the curriculum.

(e) A field placement program shall include: (1) a clear statement of its goals and methods, and a demonstrated relationship between those goals and methods and the program in operation; (2) adequate instructional resources, including faculty teaching in and supervising the program who devote the requisite time and attention to satisfy program goals and are sufficiently available to students; (3) a clearly articulated method of evaluating each student's academic performance

involving both a faculty member and the site supervisor; (4) a method for selecting, training, evaluating, and communicating with site supervisors; (5) for field placements that award three or more credit hours, regular contact between the faculty supervisor or law school administrator and the site supervisor to assure the quality of the student educational experience, including the appropriateness of the supervision and the student work; (6) a requirement that each student has successfully completed instruction equivalent to 28 credit hours toward the J.D. degree before participation in the field placement program; and (7) opportunities for student reflection on their field placement experience, through a seminar, regularly scheduled tutorials, or other means of guided reflection. Where a student may earn three or more credit hours in a field placement program, the opportunity for student reflection must be provided contemporaneously. (f) A law school that has a field placement program shall develop, publish, and communicate to students and site supervisors a statement that describes the educational objectives of the program.

Interpretation 305-1 Regular contact may be achieved through in-person visits or other methods of communication that will assure the quality of the student educational experience.

Interpretation 305-2 A law school may not grant credit to a student for participation in a field placement program for which the student receives compensation. This Interpretation does not preclude reimbursement of reasonable out-of-pocket expenses related to the field placement.

Standard 306. DISTANCE EDUCATION

(a) A distance education course is one in which students are separated from the faculty member or each other for more than one-third of the instruction and the instruction involves the use of technology to support regular and substantive interaction among students and between the students and the faculty member, either synchronously or asynchronously.

(b) Credit for a distance education course shall be awarded only if the academic content, the method of course delivery, and the method of evaluating student performance are approved as part of the school's regular curriculum approval process.

(c) A law school shall have the technological capacity, staff, information resources, and facilities necessary to assure the educational quality of distance education.

(d) A law school may award credit for distance education and may count that credit toward the 64 credit hours of regularly scheduled classroom sessions or direct faculty instruction required by Standard 310(b) if: (1) there is opportunity for regular and substantive interaction between faculty member and student and among students; (2) there is regular monitoring of student effort by the faculty member and opportunity for communication about that effort; and (3) the learning outcomes for the course are consistent with Standard 302.

(e) A law school shall not grant a student more than a total of 15 credit hours toward the J.D. degree for courses qualifying under this Standard.

(f) A law school shall not enroll a student in courses qualifying for credit under this Standard until that student has completed instruction equivalent to 28 credit hours toward the J.D. degree.

(g) A law school shall establish an effective process for verifying the identity of students taking distance education courses and that also protects student privacy. If any additional student charges are associated with verification of student identity, students must be notified at the time of registration or enrollment.

Standard 307. STUDIES, ACTIVITIES, AND FIELD PLACEMENTS OUTSIDE THE UNITED STATES

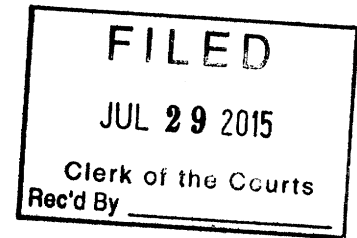
(a) A law school may grant credit for (1) studies or activities outside the United States that are approved in accordance with the Rules of Procedure and Criteria as adopted by the Council and (2) field placements outside the United States that meet the requirements of Standard 305 and are not held in conjunction with studies or activities that are approved in accordance with the Rules of Procedure and Criteria as adopted by the Council.

(b) The total credits for student participation in such studies or activities may not exceed one-third of the credits required for the J.D. degree.

From: "Johanna R. Thibault" <johanna.thibault@gmail.com>
To: <lisa.marsh@tncourts.gov>
Date: 7/29/2015 10:09 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, July 29, 2015 - 10:09am
Submitted by anonymous user: [69.166.180.160]
Submitted values are:

Your Name: Johanna R. Thibault
Your Address: 820 E. Accipiter Circle, Clarksville, TN 37043
Your email address: johanna.thibault@gmail.com
Your Position or Organization: Attorney, Petitioner
Rule Change: Supreme Court Rule 6, 7, and 8 (RPC 5.5)
Docket number: ADMIN2014-00443
Your public comments:
Dear Honorable Justices of the Tennessee Supreme Court:



I am Johanna Thibault, a lawyer that resides in Tennessee due to my husband's military orders. I write you today concerning the proposed rule pending before this court that would allow attorney spouses of servicemembers to practice while in Tennessee pursuant to orders.

My interest in this rule change is a personal one. I am an attorney and a military spouse, and I have experienced first hand the challenges and obstacles that are mentioned in the petition. Upon graduation from law school, I sat for and passed the Vermont Bar Exam and became a licensed attorney in the state of Vermont. We moved to the D.C. area where I initiated a judicial clerkship with a federal administrative agency, and my husband began his required training for the JAG Corps. Despite his efforts to obtain an assignment near D.C., my husband was assigned to Fort Lee, Virginia, where we proceeded to live apart for the second year of my clerkship.

As soon as he got assigned to Fort Lee, I applied for the Virginia bar exam. Our new residence was in Richmond, Virginia, and I had hoped to get employment there. I passed the exam and spent 17 months as a civilian attorney for the JAG Corps at Fort Lee before we moved overseas for my husband to fulfill his assignment in Germany. Our assignment at Fort Campbell is for less than two years, so upon returning the U.S. I made the difficult decision not to sit for another bar exam, and I instead focused on completing my LL.M.

My story is not a unique one among attorneys married to servicemembers. My husband and I have had five assignments in the last seven years, and we have had to live apart for one of those years so that I could continue working in my field. If Tennessee were to adopt this proposed rule, other military spouses that find themselves in similar circumstances would be able to work as an attorney and not add more time away from the legal profession in their resumes, as I have had to do.

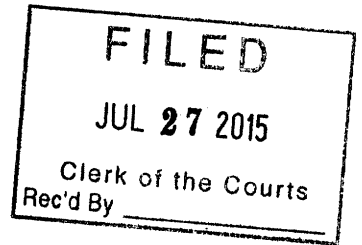
I would also like to address briefly the suggestion by other commenters that the rule be amended to include a supervision requirement. Among other ethical and financial reasons this requirement should not be included, a supervisory requirement would create an unmanageable hurdle for the military spouse. When we were assigned to Fort Campbell, I did not have any contacts or a network of attorneys here to call on to serve in the supervisory role. It would be

extremely difficult and certainly unlikely for me to be able to identify an attorney who is well-qualified to serve in the supervisory role. Therefore, a supervision requirement would effectively eviscerate the intent of the proposed rule: to provide reasonable accommodation for attorneys licensed in other states to practice in Tennessee on a temporary basis due to the military service of their spouse in Tennessee. This is evident in other states that have adopted a similar license for military spouses but have imposed a supervision requirement, particularly in Virginia, a state with a large contingent of military personnel, where attorney spouses have opted not to use the rule due to this hurdle.

Please consider adopting the proposed rule allowing military attorney spouses a temporary license to practice law while stationed in Tennessee. The military has a sizable presence in the state of Tennessee, and adopting this new rule would remove one of the many barriers military spouses already have on their legal careers.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/12405>

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

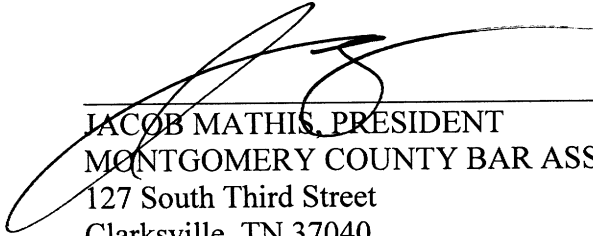


**IN RE: AMENDMENT OF RULES 6, 7, AND 8 (RPC 5.5),
RULES OF THE TENNESSEE SUPREME COURT**

No. ADMIN2015-00443

NOTICE OF FILING

Comes now the Montgomery County Bar Association and submits the attached Resolution in Opposition of Proposed Rule Change for Licensing of Military Spouse Attorneys as a written comment to the proposed Rule change.



JACOB MATHIS, PRESIDENT
MONTGOMERY COUNTY BAR ASSOCIATION
127 South Third Street
Clarksville, TN 37040
(931) 645-9900

FILED

JUL 27 2015

Clerk of the Courts

RESOLUTION IN OPPOSITION OF PROPOSED RULE CHANGE FOR

LICENSING OF MILITARY SPOUSE ATTORNEYS

BE IT RESOLVED that the Montgomery County Bar Association Board of Directors hereby adopts this Resolution in opposition of the proposed rule change for the temporary licensing of attorney spouses of military service members currently pending public comment to The Supreme Court of Tennessee. The proposed rule change would amend various provisions of Tennessee Supreme Court Rules 6, 7, and 8, and more specifically Rule 8, RPC 5.5, which govern admission and licensing of attorneys.

Due to our proximity to the U.S. Army Base at Ft. Campbell, Kentucky, and therefore, most likely affected by the proposed rule change, the Montgomery County Bar Association opposes the current proposed rule change for the TEMPORARY ADMISSION OF A MILITARY SPOUSE. The Montgomery County Bar Association recognizes the need to protect the citizens of the State of Tennessee and feels the current proposal lacks the oversight necessary to effectively supervise those that could use this rule to gain admission if the current proposal is granted.

While the Montgomery County Bar Association recognizes that military spouse attorneys face significant barriers to admission when their service member is assigned for duty in Tennessee and they are not licensed to practice in this state, this rule change would allow temporary admission with no oversight requirements from traditionally licensed attorneys which may detrimentally effect the high standards of the legal community within our state. The Montgomery County Bar Association urges the rejection of the proposed rule and/or suggests modifying the proposal to mirror the current similar proposal to amend the Rules of the Supreme Court of Kentucky (a copy of which is attached hereto), which requires any attorney temporarily

admitted to practice under this rule to work under the supervision and direction of local counsel. As with traditional Pro Hac Vice admissions, such a requirement would insure that clients have assistance from an attorney with a working knowledge of Tennessee state law.

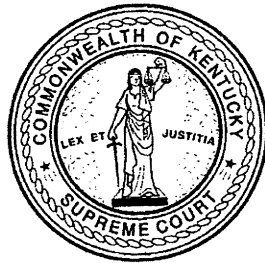
In rejecting the proposed rule changes the Supreme Court of Tennessee will prevent attorneys who are unfamiliar with and untrained regarding Tennessee state law from practicing in this State without property supervision and oversight, effectively protecting the citizens of the State of Tennessee.

ADOPTED: June 4, 2015.



JACOB MATHIS, PRESIDENT
MONTGOMERY COUNTY BAR ASSOCIATION

Supreme Court of Kentucky



PROPOSED AMENDMENTS TO THE RULES OF THE SUPREME COURT (SCR)

The following Proposed Rules Amendments will be considered in an open session beginning at 8:30 a.m. on Wednesday, June 17, 2015. The hearing will be conducted in the Bluegrass Ballroom at the Lexington Convention Center in Lexington.

These proposals have been submitted by practitioners for consideration by the Justices of the Supreme Court of Kentucky.

I. **SCR 2.018 Application [packets] Process**

The proposed amendments to the title of SCR 2.018:

II. **SCR 2.113 Military Spouse Provisional Admission.**

The proposed new rule SCR 2.113 would read:

1. Requirements. A person who meets all requirements of subparagraphs (a) through (m) of paragraph 2 of this Rule may, upon motion, be provisionally admitted to the practice of law in Kentucky.

2. Required Evidence. The applicant for provisional admission shall submit evidence satisfactory to the Kentucky Board of Bar Examiners that he or she:

(a) has been admitted by examination to practice law before the court of last resort of any state or territory of the United States or of the District of Columbia;

(b) holds a Juris Doctor degree from a law school accredited by the American Bar Association at the time of such applicant's graduation;

(c) has achieved a passing score on the Multistate Professional Responsibility Examination as it is established in Kentucky at the

time of application;

(d) is currently an active member in good standing in at least one state or territory of the United States, or the District of Columbia, where the applicant is admitted to the unrestricted practice of law, and is a member in good standing in all jurisdictions where the applicant has been admitted;

(e) is not currently subject to lawyer discipline or the subject of a pending disciplinary matter in any other jurisdiction;

(f) possesses the good character and fitness to practice law in Kentucky;

(g) is the dependent spouse of an active duty service member of the United States Uniformed Services as defined by the Department of Defense (or, for the Coast Guard when it is not operating as a service in the Navy, by the Department of Homeland Security) and that the service member is on military orders stationed in the Commonwealth of Kentucky;

(h) is physically residing in Kentucky;

(i) has submitted all requested character investigation information, in a manner and to the extent established by the Board of Bar Examiners, including all required supporting documents;

(i) has never failed the Kentucky Bar Examination;

(k) has completed twelve (12) hours of instruction approved by the Kentucky Continuing Legal Education Board on Kentucky substantive and/or procedural law, including four (4) hours of ethics, within the six-month period immediately preceding or following the filing of the applicant's application;

(l) certifies that he or she has read and is familiar with the Kentucky Rules of Professional Conduct; and

(m) has paid such fees as may be set by the Board of Bar Examiners to cover the costs of the character and fitness investigation and the processing of the application.

3. Issuance, Duration and Renewal.

(a) The Board of Bar Examiners having certified that all prerequisites have been complied with, the applicant for provisional admission shall, upon payment of applicable dues and completion of the other membership obligations, become an active member of the Kentucky Bar Association. An attorney provisionally admitted pursuant to this Rule shall be subject to the same membership obligations as other active members of the Kentucky Bar Association, and all legal services provided in Kentucky by a lawyer admitted pursuant to this Rule shall be deemed the practice of law and shall subject the attorney to all rules governing the practice of law in Kentucky, including the Kentucky Rules of Professional Conduct.

(b) A provisional admission may be renewed by July 31 of each year, upon filing with the Kentucky Bar Association (i) a written request for renewal, (ii) an affidavit by supervising Local Counsel, who certifies to the provisionally admitted attorney's continuing employment by or association with Local Counsel and to Local Counsel's adherence to the supervision requirements as provided under this Rule, and (iii) compliance with the membership obligations of the Rules of the Supreme Court of Kentucky applicable to active members of the Kentucky Bar Association.

(c) When the active duty service member is assigned to an unaccompanied or remote follow-on assignment and the attorney continues to physically reside in Kentucky, the provisional admission may be renewed until that unaccompanied or remote assignment ends, provided that the attorney complies with the other requirements for renewal.

4. Supervision of Local Counsel. A person provisionally admitted to practice under this Rule may engage in the practice of law in this jurisdiction only under the supervision and direction of Local Counsel.

(a) As used in this Rule, Local Counsel means an active member in good standing of the Kentucky Bar Association, whose office is in Kentucky.

(b) Local Counsel must provide to the Kentucky Bar Association his or her Kentucky Bar number, physical office address, mailing address, email address, telephone number, and written consent to serve as Local Counsel, on the form provided by the Board of Bar Examiners.

(c) Unless specifically excused from attendance by the trial judge, Local Counsel shall personally appear with the provisionally admitted attorney on all matters before the court.

(d) Local Counsel will be responsible to the courts, the Kentucky Bar Association, the Supreme Court of Kentucky, and the client for all

services provided by the provisionally admitted attorney pursuant to this Rule.

(e) Local Counsel is obligated to notify the Executive Director of the Kentucky Bar Association when the supervising relationship between the provisionally admitted attorney and Local Counsel is terminated.

5. Events of Termination. An attorney's provisional admission to practice law pursuant to this Rule shall immediately terminate and the attorney shall immediately cease all activities under this Rule upon the occurrence of any of the following:

(a) The spouse's discharge, separation or retirement from active duty in the United States Uniformed Services, or the spouse's no longer being on military orders stationed in the Commonwealth of Kentucky, except as provided in section 3(c) of this Rule.

(b) Failure to meet the annual licensing requirements of an active member of the Kentucky Bar Association;

(c) The absence of supervision by Local Counsel;

(d) The attorney no longer physically residing within the Commonwealth of Kentucky;

(e) The attorney ceasing to be a dependent as defined by the Department of Defense (or, for the Coast Guard when it is not operating as a service in the Navy, by the Department of Homeland Security) on the spouse's official military orders;

(f) The attorney being admitted to practice law in this Commonwealth under an admissions rule other than that of Provisional Admission;

(g) The attorney receiving a failing score on the Kentucky Bar Examination;

(h) The attorney being suspended from the practice of law in Kentucky; or

(i) Request by the attorney.

6. Notices Required.

(a) An attorney provisionally admitted under this Rule shall provide written notice to the Kentucky Bar Association of any Event of Termination within thirty (30) days of the occurrence thereof.

(b) Within thirty (30) days of the occurrence of any Event of Termination, the attorney shall:

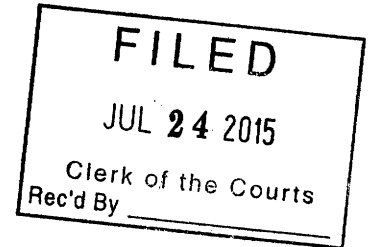
(i) provide written notice to all his or her clients that he or she can no longer represent such clients and furnish proof to the Executive Director of the Kentucky Bar Association within sixty (60) days of such notification; and

(ii) file in each matter pending before any court or tribunal in this Commonwealth a notice that the attorney will no longer be involved in the matter, which shall include the substitution of the Local Counsel, or such other attorney licensed to practice law in Kentucky selected by the client, as counsel in the place of the provisionally admitted attorney.

7. Benefits and Responsibilities. An attorney provisionally admitted under this Rule shall be entitled to the benefits and be subject to all responsibilities and obligations of active members of the Kentucky Bar Association, and shall be subject to the jurisdiction of the

From: "Rebekah Gleaves Sanderlin" <rebekah.sanderlin@gmail.com>
To: <lisa.marsh@tncourts.gov>
Date: 7/24/2015 12:51 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Friday, July 24, 2015 - 12:50pm
Submitted by anonymous user: [70.188.248.233]
Submitted values are:



Your Name: Rebekah Gleaves Sanderlin
Your Address: Niceville, FL
Your email address: rebekah.sanderlin@gmail.com
Your Position or Organization: Military Family Advocate
Rule Change: Supreme Court Rule 6, 7, and 8 (RPC 5.5)
Docket number: ADMIN201500443
Your public comments:
July 24, 2015
Tennessee Supreme Court
Re: Rule 7 section 5.03, No. ADMIN201500443
100 Supreme Court Building
401 7th Avenue North
Nashville, TN 37219-1407

Dear Esteemed Justices,

I am writing to you today in reference to the Supreme Court Order Soliciting Comments to Proposed Amendment of SCT Rule 7, Licensing of Military Spouse Attorneys — ADM2015-00443.

As a native (and future) Nashvillian and a national advocate for military families, I believe that this amendment will remove some of the unnecessary hurdles many military spouses who are attorneys currently face in Tennessee, while also honoring their service and sacrifices and allowing Tennesseans to benefit from the knowledge and experiences of these highly qualified attorneys.

I know firsthand how difficult it is to obtain the credentials necessary to practice law. Some of my most poignant memories are of watching my mother, Mary Frances Rudy — then a single mother of four and a former school teacher — and her study group spending their Saturdays working through Contracts and Torts when she was a student at the Nashville School of Law. She graduated at 40 years old, at the top of her class, and presently practices through both the Rudy Title & Escrow company and through Rudy, Wood, Winstead, Kolb & Turner. Several of my family members followed her into the practice of law in Nashville, including Frank Rudy, Ashley Rudy, William Moore and Carrie Gleaves. I also followed her example and attended the University of Memphis School of Law, but elected to return to my career in journalism instead. Further, dozens of my friends from high school (Hillsboro), college (Belmont) and law school (Memphis) currently practice in Nashville and around the state. I do not take lightly the rigor required for one to obtain a law degree, pass the bar exam and maintain a legal practice and, as a Tennessee property owner with many ties to the state, I have a vested interest in Tennessee carefully guarding the quality of attorneys practicing.

However, as an Army wife since 2003, I have struggled to maintain my career, despite the inherently portable nature of journalism. (Incidentally, my

career began at The Tennessean, and includes Nashville In Review, The Nashville Scene, The Memphis Flyer and Memphis Magazine.) My husband's years of war and deployments and our forced relocations have made it difficult for me to pursue my professional calling, and so I am very sympathetic to the struggles of my military spouse peers who are attorneys. With no state licensing requirements for journalists, I've been able to see and hear my words in The New York Times, The Washington Post, CNN, NPR, PBS, NBC Nightly News, MSNBC, and many other news outlets. Had I chosen the legal profession instead, state licensing requirements and the military lifestyle would have almost certainly prevented me from achieving equivalent success.

Presently I serve on the advisory boards of two national military family advocacy organizations —Blue Star Families and the Military Family Advisory Network. My work with these organizations has allowed me opportunities to be a featured speaker at events with the President and the First Lady, the U.S. Attorney General, the U.S. Secretary of Commerce, and the President's Domestic Policy Advisor, and I worked directly with the heads of every federal department when I advised the White House on the 2010 Presidential Directive on Military Families. In 2012 I was a top 5 finalist for the Army for the Military Spouse of the Year award. As an advocate who works on policy issues at the national level, I can assure you that finding ways for military spouses to pursue their chosen career fields is one of the most pressing concerns for military families nationwide. This is no less than a national security issue as we know that service members whose spouses are not able to work in their fields are choosing to depart military service altogether. America is losing some of our most highly trained troops — and the considerable investment our country has made in those individuals — simply because their spouses are not able to work where they are stationed.

Tennessee — my home state, a place my family has lived for at least nine generations and a state I plan to return to when my husband's military career ends — has the opportunity now to remedy this problem for a group of military spouses who have already made considerable sacrifices for our country. I hope the state I love will seize that opportunity.

Sincerely yours,
Rebekah Gleaves Sanderlin

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/12368>

From: "Alexis Conniff" <alexis.w.conniff@gmail.com>
To: <lisa.marsh@tncourts.gov>
Date: 7/22/2015 1:34 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, July 22, 2015 - 1:33pm
Submitted by anonymous user: [8.27.215.182]
Submitted values are:

Your Name: Alexis Conniff
Your Address: 524 Parkvue Village Way
Your email address: alexis.w.conniff@gmail.com
Your Position or Organization: Attorney
Rule Change: Supreme Court Rule 6, 7, and 8 (RPC 5.5)
Docket number: 2015443
Your public comments:
July 22, 2015

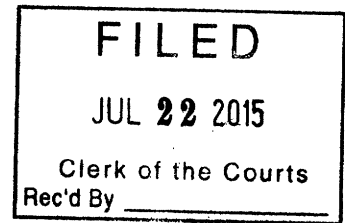
James Hivner, Clerk
Re: Rule 7 Section 5.03
100 Supreme Court Building
401 7th Avenue North
Nashville, TN 37219-1407

Re: PUBLIC COMMENTS ON AMENDMENT OF RULE 7, SECTION 5.03, No. ADMIN20150443

Dear Honorable Justices of the Tennessee Supreme Court,

I am writing in support of the petition to amend the Tennessee Supreme Court Rules 6, 7 and 8, to allow for the temporary admission of qualified attorney spouses of active duty servicemembers in the United States Uniformed Services. My interest in this rule change is a personal one: I am an attorney licensed to practice law in the states of Texas (2009) and Tennessee (2014), and the spouse of an active-duty soldier currently stationed at Fort Campbell, Kentucky. My family has sacrificed as a result of my husband's military career and will be asked to sacrifice again should my husband receive military orders elsewhere. The obstacles and experiences referenced to in the petition are part of my own story.

In the last seven years that I have known my husband, he has been assigned to three duty stations, and has been asked to move four times: Fort Hood, Texas; Fort Campbell, Kentucky; Fort Bragg, North Carolina, and back to Fort Campbell, Kentucky. I met him, Mike, while he was stationed in Texas and I was studying at the University of Texas School of Law. I realized he was the person with whom I wanted to spend the rest of my life. Although I assumed that maintaining a legal career while married to a servicemember would be difficult, I had no idea just how profoundly difficult it would actually be. I took the Texas bar exam immediately after graduation and was licensed to practice law in Texas on November 5th, 2009. I moved to Clarksville, Tennessee the following day, November 6th, after his assignment to Fort Campbell, Kentucky. For two years, I weighed the cost of attempting and taking another bar exam against the likelihood that he would be stationed elsewhere. As soon as I had begun working as an e-discovery attorney, a position that did not require a Tennessee license, he received orders to report to Fort Bragg, NC. Although I was still unlicensed in Tennessee, and my e-discovery work wasn't what I had envisioned doing with my law degree



when I went to law school, it was a legal position and I was glad to finally be working again. Together, we made the difficult decision that I would stay behind in Tennessee, maintain our household, care for our toddler son, continue working and establish a legal network and hope that when my husband's two-year training at Fort Bragg was over, he would be re-assigned to Fort Campbell. Those two years were extremely difficult for all of us- my son, my husband and me. I commuted from Clarksville to Nashville everyday, with almost no help in Clarksville. I did my level best in caring for our son, while also putting in a full workweek. Every six weeks, one of us- either my husband or I, would make the 10.5 hour drive between us to spend a precious 36 to 48 hours together. When my husband graduated from the Special Forces Qualification Course and officially received orders back to Fort Campbell, Kentucky, we were all incredibly relieved. Up to that point, in four years of marriage, my husband and I had lived together for less than one year.

My husband's assignment to Fort Campbell should last another several years, and with that knowledge, we felt 2014 was the right time for me to take the Tennessee bar exam. In July 2014, I took and passed the bar exam, five years after taking the Texas bar exam. Had there been a military spouse licensing accommodation rule in place in 2009, I could have begun using my talent, intelligence, and education five years sooner, not just for the betterment of my family but also for the clients I would have served in Tennessee. I am not the first military spouse to face the dilemma of staying behind or moving with his or her active-duty spouse, and I will not be the last.

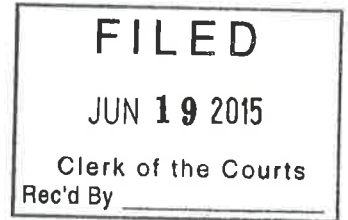
I, therefore, urge you to please consider adopting the proposed rule allowing military attorney spouses a temporary license to practice law while stationed in Tennessee. In recognition of the unique challenges facing military spouse attorneys, twelve states have already enacted a rule that allows the attorney spouses of servicemembers to practice while accompanying their spouse on orders. These rules have a broad range of support, including the Conference of Chief Justices, the American Bar Association, the U.S. Chamber of Commerce, the Military Officers Association of America, and the White House's Joining Forces initiative. The military has a sizable presence in the state of Tennessee, and adopting this new rule would remove one of the many barriers military spouses already have on their legal careers.

Sincerely,

Alexis W. Conniff (Military Spouse)
Bar No: 033679 (TN), 24070884 (TX)
524 Parkvue Village Way
Clarksville, TN 37043

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/12352>

IN THE SUPREME COURT OF TENNESSEE AT NASHVILLE



IN RE: PETITION TO AMEND
TENNESSEE SUPREME COURT
RULES 6, 7 AND 8 (RPC 5.5)

)
)
)

NO. ADMIN 201500443

NOTICE

Please accept for filing this Notice and attached Affidavit filed in support of the Petition to Amend Tennessee Supreme Court Rules 6, 7 & 8 and Amendment thereto.

Respectfully submitted,

Carol L. McCoy, BPR 002255
406 Metro Courthouse
Nashville, TN 37201

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the Notice and attached Affidavit has been served upon the individuals identified in Exhibit A attached hereto by regular U.S. Mail, postage prepaid, first class mail within seven (7) days of filing with the Court.

Carol L. McCoy

State of Tennessee)
County of Davidson)

AFFIDAVIT OF CAROL L. McCOY


I, Carol L. McCoy, being first duly sworn, submit this affidavit in support of the relief sought in the Petition to Amend Tennessee Supreme Court Rules 6, 7 & 8, No. ADMIN20150043, and the Amendment to that Petition, and state under oath as follows:

1. My father, Nelson McCoy, was a pilot in the United States Air Force for 26 years and retired in 1965 with the rank of Lt. Colonel. During their marriage and my father's military service, my parents had five children over 17 years. My father was not present for the birth of his first three children.
2. We moved almost every two years while I was growing up. When my mother was pregnant with me, my parents were returning from my father's post-war assignment in Austria. Upon his arrival in the United States, my father had no housing for us at his new assignment in Kearney, Nebraska. Consequently, he left my pregnant mother in Kingsport, Tennessee with his oldest sister in order to report on time for duty in Nebraska and to locate a place for us to live. I was born in Kingsport. After six weeks, my mother, my sister and I moved to Nebraska to join my father. We moved from Nebraska to Texas to Maine, all before I was six. At some point while I was young, we lived in Alabama while my father attended the war college. I attended the first half of the first grade in Louisiana and then we moved to Alaska. My elementary and middle school years involved four different schools and I attend three different high schools located in Wisconsin, Germany and Florida.
3. My mother worked before her marriage as a hospital lab technician and had a sound understanding of science and medicine. Nonetheless, she was never able to put her education and knowledge to use once she married my father. My mother did not work outside the home until I had graduated from high school and my father had retired. Upon his retirement, she became employed at the University of South Florida, assigned to debug computer coding for the university's fiscal office. My mother was very competent and bright, but the frequent changes in my father's assignments made it impossible for her to work outside the home. In addition to the frequent relocations which she generally had to navigate on her own, my mother was the only person to care for us while my father was on temporary duty leave. During one tour in Wisconsin, my father served an Inspector General, a position that necessitated that he travel to many Air Force bases across the United States. These and other assignments frequently caused him to be gone from home for days (and sometimes weeks) without us knowing how long he would be away. When we lived in Germany, my father would leave us for over a month at a time for temporary duty in Texas, for debriefing or for other official matters.
4. My father bought one house early in his marriage when he was stationed in Austin, Texas. We lived in Texas two years before he was reassigned to Bangor, Maine. He did not have time to help my mother sell the house, pack up the furniture and move with three children (all under

the age of 6) to join him in Maine. My father never purchased another home while he was serving in the military because he could not recover his investment due to the short time that he would be able to own the property.

5. When my father was transferred to Germany, he had to leave his wife and family in Wisconsin for eight (8) months because he had to wait for military housing for us. At that time, he had five children, ranging in ages from 18 years old to 18 months old. Mother was the parent who oversaw my oldest sister's graduation from high school and enrollment in college at the University of Kentucky. We then left for New Jersey to catch the flight required by our travel orders, leaving my sister in the United States while we moved overseas. We did not see my sister throughout her entire first year of college.
6. I greatly admire both my parents. I now recognize the enormous demands that my father's service placed upon them. My mother never complained despite the hardships caused by father's service; my parents had a strong marriage and were committed to each other and to us, their children. As an elected public official in Nashville, Tennessee, I also recognize the importance of strong bonds to one's community. As a lawyer and Chancellor, I understand the difficulty in trying to transfer one's professional practice to a different community, let alone move one's practice to another State.
7. I submit this abbreviated history of my life as the child of a military officer (a) to personalize the stressful demands made upon military family members and (b) in support of the Petition to allow qualified licensed attorneys who are spouses of active military officers and servicemen to temporarily practice law while their spouses serve in Tennessee or at Fort Campbell, Kentucky.

I, Carol L. McCoy, swear under penalty of perjury that the facts set out above are true.



Carol L. McCoy
Chancellor, Chancery Court for Davidson County, Part II

Sworn to and subscribed before me this ___ day of June, 2015.



Notary Public (Signature)



Name of Notary Public (printed)

State of Tennessee

My commission expires: 7/2/18



SEAL

Exhibit A

Name	Title	Firm	Address One	Address Two	City	State	Zip
Deborah Tate	Administrative Director	Administrative Office of the Courts	511 Union St	Suite 600	Nashville	TN	37219
Hon. Alberto Gonzales	Dean	Belmont University College of Law	1900 Belmont Blvd		Nashville	TN	37212
Sandy L. Garrett	Chief Disciplinary Counsel	Board of Professional Responsibility	10 Cadillac Drive	Suite 220	Brentwood	TN	37027
Michael U. King	Chairman of the Board	Board of Professional Responsibility	12880 E Paris St	PO Box 667	Huntingdon	TN	38344-0667
Peter Letsou	Dean, Cecil C. Humphreys School of Law	University of Memphis	1 North Front Street	Suite 420 Pioneer Bldg	Memphis	TN	38103
Lynda Hood	Executive Director	Chattanooga Bar Association	801 Broad St		Chattanooga	TN	37402
Paul Hatcher	President, Chattanooga Bar Association		1418 McCallie Ave		Chattanooga	TN	37404
Marsha Wilson	Executive Director	Knoxville Bar Association	P O Box 2027	505 Main St Suite 50	Knoxville	TN	37901
Wade Davies	President, Knoxville Bar Association	Ritchie Dillard Davies et al	PO Box 1126		Knoxville	TN	37901
Parham Williams	Dean, Lincoln Memorial University	Duncan School of Law	601 W. Summit Hill Drive		Knoxville	TN	37902
Tommy Parker	President, Memphis Bar Association	Baker Donelson	165 Madison Ave.	Ste. 2000	Memphis	TN	38103
Anne Fritz	Executive Director	Memphis Bar Association	145 Court Ave	Ste 1	Memphis	TN	38103-2292
Monica Mackie	Executive Director	Nashville Bar Association	150 4th Avenue North	#1050	Nashville	TN	37219
Edward Lanquist	President, Nashville Bar Association	Patterson PC	1600 Division St	Ste. 500	Nashville	TN	37203
Justice William Koch	Dean	Nashville School of Law	4013 Armory Oaks Drive		Nashville	TN	37204
Allan Ramsaur	Executive Director	Tennessee Bar Association	221 4th Ave N	Suite 400	Nashville	TN	37219
Jonathan Steen	President, Tennessee Bar Association	Redding Steen & Staton, PC	464 North Pkwy	Suite A	Jackson	TN	38305

Exhibit A

Name	Title	Firm	Address One	Address Two	City	State	Zip
Julian Bibb	President, TN Board of Law Examiners	Sites and Harbison	401 Commerce Street, #800		Nashville	TN	37219
Bill Harbison	Vice President, TN Board of Law Examiners	Sherrard & Roe, PLC	150 3 rd Avenue S,	Ste. 1100	Nashville	TN	37201
Jeffrey M. Ward	Secretary-Treasurer, TN Board of Law Examiners	Milligan & Coleman, PLLP	230 W. Depot St		Greeneville	TN	37743
Hon. William M. Barter	TN Board of Law Examiners	Chambliss, Bahner & Stophel, P.C.	605 Chestnut Street	Liberty Tower, Suite 1700	Chattanooga	TN	37450
Barbara M. Zoccola	TN Board of Law Examiners	United States Attorney's Office	167 N. Main St, 8 th Floor		Memphis	TN	38103
Judy McKissack	Executive Director	Commission on Continuing Legal Education	221 Fourth Avenue North # 300		Nashville	TN	37219
Leslie A. Muse	Chair, Commission on Continuing Legal Education		2701 Kingston Pike	PO Box 2649	Knoxville	TN	37901-2649
Doug Blaze	Dean	UT College of Law	1505 W. Cumberland Ave, Rm 278		Knoxville	TN	37996
Chris Guthrie	Dean	Vanderbilt University School of Law	131 21st Ave. South, Room 108		Nashville	TN	37203

Exhibit A

Name	Firm	Address One	Address Two	City	State	Zip
Josie E. Beets		1325 Chinook Circle		Clarksville	TN	37042
Martha L. Boyd	Baker Donelson Bearman Caldwell & Berkowitz PC	211 Commerce Street	Suite 800	Nashville	TN	37201
Robert Echols	Bass Berry & Sims	150 Third Avenue South	Suite 2800	Nashville	TN	37201
Charles K. Grant	Baker Donelson Bearman Caldwell & Berkowitz PC	211 Commerce Street	Suite 800	Nashville	TN	37201
James E. Mackler	Bone McAllester Norton PLLC	511 Union Street	Suite 1600	Nashville	TN	37219
George C. Paine II		3702 Whitland Avenue		Nashville	TN	37205
Kathleen Pohlid	Pohlid, PLLC	205 Powell Place	Suite 357	Brentwood	TN	37207
Johanna R. Thibault		820 E. Accipiter Circle		Clarksville	TN	37043
Robert D. Tuke	Trauger & Tuke	222 Fourth Avenue North		Nashville	TN	37219

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

FILED

JUN 18 2015

Clerk of the Courts
Rec'd By _____

**IN RE: AMENDMENT OF RULES 6, 7, AND 8 (RPC 5.5),
RULES OF THE TENNESSEE SUPREME COURT**

No. ADMIN 2015-00443

**COMMENT OF THE BOARD OF PROFESSIONAL RESPONSIBILITY
TO PETITION TO AMEND TENN. SUP. CT. RULES 6, 7 AND 8
(RPC 5.5) GOVERNING ADMISSION AND
LICENSING OF ATTORNEYS**

Comes now the Board of Professional Responsibility (the Board), pursuant to Order filed March 25, 2015, and submits the following Comment to Petition to Amend Tenn. Sup. Ct. Rules 6, 7, and 8.

A. Tenn. Sup. Ct. R. 7 – Licensing of Attorneys

1. Proposed Tenn. Sup. Ct. R. 7, Article I, Sections 1.01 and 5.01(c) reference the “practice of law” as defined in T.C.A. § 23-3-101. Tenn. Sup. Ct. R. 9, Sec. 10.3(e) also defines the “practice of law.” The Board respectfully suggests Rule 7 include both the T.C.A. and Rule 9 definitions of the “practice of law.”

2. Proposed Tenn. Sup. Ct. R. 7, Article 1, 7, Sec. 1.01(b) regarding special or limited practice should encompass 5.5(d)(1) and 5.5(d)(2), and should be revised to reference to Tenn. Sup. Ct. R. 8, 5.5(d) and not just 5.5 (d)(2).

3. The Board supports the proposed clarifying language and notice requirements for in-house counsel as outlined in Tenn. Sup. Ct. R. 7, Article X, Sec. 10.01(e) and (f).

4. For clarity, the Board respectfully suggests deleting “for two (2) exam cycles” in Tenn. Sup. Ct. R. 7, Article X, Sec. 10.04(a)(v), since “exam cycle” is not defined, leaving the privilege to engage in supervised practice for no longer than eighteen (18) months after the first Application to the Bar of Tennessee.

5. The Board supports the proposed changes to the conditional admission rule in Tenn. Sup. Ct. R. 7, Article X, Section 10.05(f) and (g).

6. Proposed Tenn. Sup. Ct. R. 7, Article XVI, Reinstatement of Law License, should be revised to reference amended Tenn. Sup. Ct. R. 9, Sections 10 and 30, instead of Sections 19 and 20. Additionally, the Board respectfully asserts the proposed exception allowing attorneys with an "Order from the Supreme Court" to take the bar exam in advance of a determination of their petition is ambiguous since it is unclear whether this provision permits an applicant to apply for and be granted an Order allowing the petitioner to take the bar exam prior to the resolution of a petition for reinstatement.

B. Tenn. Sup. Ct. R. 8, Rules of Professional Conduct

7. The Board has no objection to proposed Tenn. Sup. Ct. R. 8, RPC 5.5 adding subsection (3) to RPC 5.5(d).

RESPECTFULLY SUBMITTED,

Michael King By JB w/ permission

MICHAEL U. KING (#020830)

Chairman, Board of Professional Responsibility
of the Supreme Court of Tennessee

King and Thompson, Attorneys at Law
12880 Paris Street
P.O. Box 667
Huntingdon, TN 38344-0667

Sandy Garrett

SANDY GARRETT (#013863)

Chief Disciplinary Counsel, Board of Professional
Responsibility of the Supreme Court of Tennessee

10 Cadillac Drive, Suite 220
Brentwood, TN 37027

Certificate of Service

I certify that the foregoing has been mailed to Allan F. Ramsaur, Esq., Executive Director, Tennessee Bar Association, 221 4th Avenue North, Suite 400, Nashville, Tennessee by U.S. mail, on this the 17 day of June, 2015.

By: Michael King By SG w/ permission
MICHAEL U. KING (#020830)
Chairman of the Board

By: Sandy Garrett
SANDY L. GARRETT (#013863)
Chief Disciplinary Counsel



BOARD OF PROFESSIONAL RESPONSIBILITY
of the
SUPREME COURT OF TENNESSEE

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CHIEF DISCIPLINARY COUNSEL
KRISANN HODGES
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WILLIAM C. MOODY
PRESTON SHIPP
EILEEN BURKHALTER SMITH
A. RUSSELL WILLIS
DISCIPLINARY COUNSEL

June 17, 2015

Honorable James M. Hivner
Chief Clerk, Supreme Court of Tennessee
401 Seventh Avenue North, Suite 100
Nashville, TN 37219-1407

Dear Mr. Hivner:

Enclosed please find the original and one copy of the Comment of the Board of Professional Responsibility to Petition to Amend Tenn. Sup. Ct. Rules 6, 7 and 8 (RPC 5.5), No. ADM 2015-00443.

Respectfully,

A handwritten signature in cursive script that reads "Sandy Garrett".

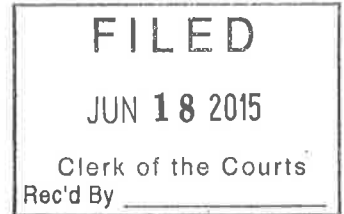
Sandy L. Garrett, Esq.
Chief Disciplinary Counsel

SG:jt

Enclosures

cc w/encl: Honorable Jeffrey S. Bivins, Justice, Supreme Court of Tennessee
Michael U. King, Chair, Board of Professional Responsibility
Allan Ramsaur, TBA Executive Director

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE



**IN RE: AMENDMENT OF RULES 6, 7, AND 8 (RPC 5.5),
RULES OF THE TENNESSEE SUPREME COURT**

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TO PETITION TO AMEND TENN. SUP. CT. RULES 6, 7 AND 8
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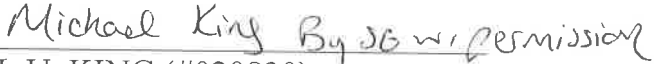
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RESPECTFULLY SUBMITTED,


MICHAEL U. KING (#020830)
Chairman, Board of Professional Responsibility
of the Supreme Court of Tennessee

King and Thompson, Attorneys at Law
12880 Paris Street
P.O. Box 667
Huntingdon, TN 38344-0667


SANDY GARRETT (#013863)
Chief Disciplinary Counsel, Board of Professional
Responsibility of the Supreme Court of Tennessee

10 Cadillac Drive, Suite 220
Brentwood, TN 37027

Certificate of Service

I certify that the foregoing has been mailed to Allan F. Ramsaur, Esq., Executive Director, Tennessee Bar Association, 221 4th Avenue North, Suite 400, Nashville, Tennessee by U.S. mail, on this the 17 day of June, 2015.

By: Michael King By SG w/ permission
MICHAEL U. KING (#020830)
Chairman of the Board

By: Sandy Garrett
SANDY L. GARRETT (#013863)
Chief Disciplinary Counsel



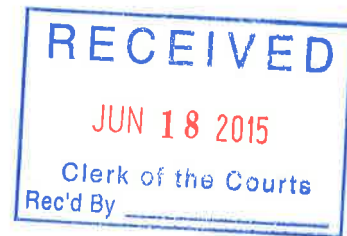
BOARD OF PROFESSIONAL RESPONSIBILITY
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A. RUSSELL WILLIS
DISCIPLINARY COUNSEL

June 17, 2015



Honorable James M. Hivner
Chief Clerk, Supreme Court of Tennessee
401 Seventh Avenue North, Suite 100
Nashville, TN 37219-1407

Dear Mr. Hivner:

Enclosed please find the original and one copy of the Comment of the Board of Professional Responsibility to Petition to Amend Tenn. Sup. Ct. Rules 6, 7 and 8 (RPC 5.5), No. ADM 2015-00443.

Respectfully,

A handwritten signature in cursive that reads "Sandy Garrett".

Sandy L. Garrett, Esq.
Chief Disciplinary Counsel

SG:jt

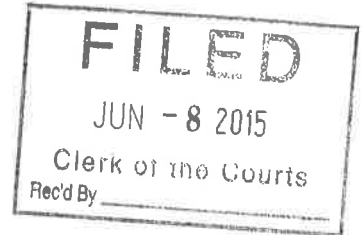
Enclosures

cc w/encl: Honorable Jeffrey S. Bivins, Justice, Supreme Court of Tennessee
Michael U. King, Chair, Board of Professional Responsibility
Allan Ramsaur, TBA Executive Director

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

IN RE AMENDMENT OF RULES 6, 7, and 8 (RPC 5.5),
RULES OF THE TENNESSEE SUPREME COURT

No. ADMIN2015-00443



JOINT COMMENT OF THE SIX TENNESSEE
LAW SCHOOLS

The six law schools located in Tennessee – Belmont University College of Law, Lincoln Memorial University Duncan School of Law, Nashville School of Law, University of Memphis Cecil C. Humphries School of Law, University of Tennessee College of Law, and Vanderbilt University School of Law - respectfully submit the following comment in support of the Tennessee Board of Law Examiners (“TBLE”) petition to amend Tennessee Supreme Court Rule 7, § 2.01. The proposed amendment would require applicants for admission to the Bar of Tennessee to obtain a Bachelor’s Degree prior to sitting for the Bar Examination, rather than prior to beginning the study of law. The pertinent portion of the TBLE petition pertaining to Rule 7, § 2.01 resulted from discussions between TBLE and the deans of the Tennessee law schools. The law schools appreciate the interest, support, and leadership of TBLE on this issue.¹

Background

The high cost of education remains a significant problem in the State of Tennessee and throughout the country. The increasing cost of higher education saddles some students with

¹ The comment is limited to the portion of the TBLE petition dealing with Rule 7, Section 2.01.

student loan debt to the point that it limits their future opportunities. For others, the costs of higher education amount to a significant obstacle to enrollment.

One way law schools throughout the country have addressed the rising costs of tuition is through the creation of 3+3 programs. Typically, these are highly-structured programs in which a student who has completed three years of undergraduate study may enroll in law school and apply the credits earned in the first year of law school toward the student's undergraduate degree. Thus, students are able to receive their Bachelor's Degree and Juris Doctorate in a total of six years instead of the usual seven. In the process, they save a year's tuition.

The American Bar Association (ABA) recently amended its Standards for the Approval of Law Schools to recognize and sanction the establishment of 3+3 programs. ABA Standards for Approval of Law Schools 2014-15, Standard 502(b)(1). ABA Standard 502(a) requires that a law school establish as a standard for admission to its J.D. program a requirement that a student must have received a Bachelor's Degree that has been awarded by an accredited institution. However, new Standard 502(b)(1) clarifies that a law school may also admit "an applicant who has completed three-fourths of the credits leading to a bachelor's degree as part of a bachelor's degree/J.D. degree program" Thus, the ABA has approved the establishment of 3+3 programs for use by ABA-accredited law schools.

These programs are becoming increasingly common in legal education. They are in place in law schools across the country and at some of the most highly-ranked law schools. These 3+3 programs are still subject to ABA and state accreditation standards. Typically, admission to

these programs is limited to students with outstanding credentials.² The University of Tennessee College of Law has proposed a 3+3 program, and other law schools are exploring the concept.

The Problem

In its present form, Tennessee Supreme Court Rule 7, § 2.01 renders a student who has completed a 3+3 program ineligible to sit for the Tennessee Bar Examination. Section 2.01(a) currently provides that an applicant must file as part of an application

[e]vidence satisfactory to the Board that *prior to beginning the study of law*, the applicant had received a Bachelor's Degree from a college on the approved list of the Southern Association of Colleges and Secondary Schools, or the equivalent regional accrediting association, or any accreditation agency imposing at least substantially equivalent standards. (emphasis added)

Because an applicant who has completed a 3+3 program, by definition, has not received a Bachelor's Degree *prior to beginning the study of law*, the applicant is ineligible to sit for the Tennessee Bar Exam. An applicant may seek a waiver of this rule from the Board of Law Examiners. *Id.* § 2.01(c). However, as the rule currently exists, an applicant who has completed a 3+3 program would be *prima facie* ineligible to be admitted to the Tennessee Bar and, given the uncertainties associated with a waiver, may be dissuaded from entering such a program or applying for admission to the Bar.

Rule 7, § 2.01 was adopted prior to the creation of 3+3 programs and prior to the ABA's adoption of its new standard regarding 3+3 programs. Therefore, the rule was almost certainly not designed with 3+3 programs in mind. Tennessee is, in fact, the only state in the country with such a rule in place. See Exhibit 1 (attached). Most states simply require that a student receive a

²For example, under the plan being considered at the University of Tennessee, students seeking admission to the College of Law would ordinarily be required to have earned a 3.5 undergraduate GPA and a score of 160 on the LSAT. Therefore, the students who enroll in 3+3 programs are usually highly motivated and highly qualified students.

Bachelor's Degree prior to applying for admission to the bar. See, e.g., Ga. R. Gov'g Admis. Prac. Law § 4.

The Solution

The amendment to Rule 7, § 2.01 proposed by the TBLE solves the problem and will permit future lawyers to take advantage of the significant benefits associated with 3+3 programs and so that the Tennessee Bar may benefit from the inclusion of these individuals.³

This proposed amendment furthers the State of Tennessee's compelling interests in protecting the public and ensuring the competence of lawyers practicing in the state while enabling aspiring lawyers to take advantage of the significant benefits afforded by 3+3 programs.

All of the law schools in Tennessee support the petition of the TBLE.

Respectfully submitted,

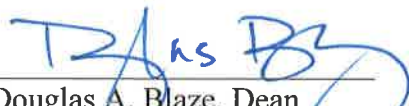
/s/ by permission
Alberto R. Gonzalez, Dean
Belmont University College of Law

/s/ by permission
Matthew R. Lyon, Acting Dean
Lincoln Memorial University – Duncan School of
Law

³ Rule 7, § 2.03(g)(2)(A), which applies exclusively to the Nashville School of Law, contains a cross-reference to section 2.01. Section 2.03(g)(2)(A) states that an applicant to NSL "must have . . . [r]eceived a bachelor's degree as provided in Rule 7, § 2.01." The law schools interpret the TBLE petition as having the effect of amending section 2.03 as well to maintain consistency.

/s/ by permission
William C. Koch, Jr., Dean
Nashville School of Law

/s/ by permission
Peter V. Letsou, Dean
University of Memphis Cecil C. Humphries School
of Law



Douglas A. Blaze, Dean
University of Tennessee College of Law

/s/ by permission
Chris Guthrie, Dean
Vanderbilt University School of Law

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing has been served upon the following individuals by regular U.S. mail, postage prepaid within 7 days of filing with the Court:

Lisa Perlen
Executive Director
Tennessee Board of Law Examiners
401 Church Street, Suite 2200
Nashville, TN 37219

Julian Bibb
Executive Director
Tennessee Board of Law Examiners
401 Church Street, Suite 2200
Nashville, TN 37219



Douglas A. Blaze

EXHIBIT 1

Majority view: States that would permit a student to undertake legal studies after successfully completing three years of undergraduate studies:

Alaska, Arizona, Arkansas, California,* Colorado, Connecticut, District of Columbia, Florida, Georgia, Hawaii, Idaho, Illinois,** Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan,* Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Texas, Utah, Vermont,** Virginia, Washington, West Virginia, Wisconsin, Wyoming

* requiring at least 60 “semester hours” or 90 “quarter hours” of study in courses for which credit towards a collegiate degree is given

** requiring at least 90 completed credit hours or three-quarters of a bachelor’s degree at an approved college before starting a legal education

Minority view: States that would not permit a student to undertake legal studies during their fourth and final year of undergraduate studies:

Tennessee

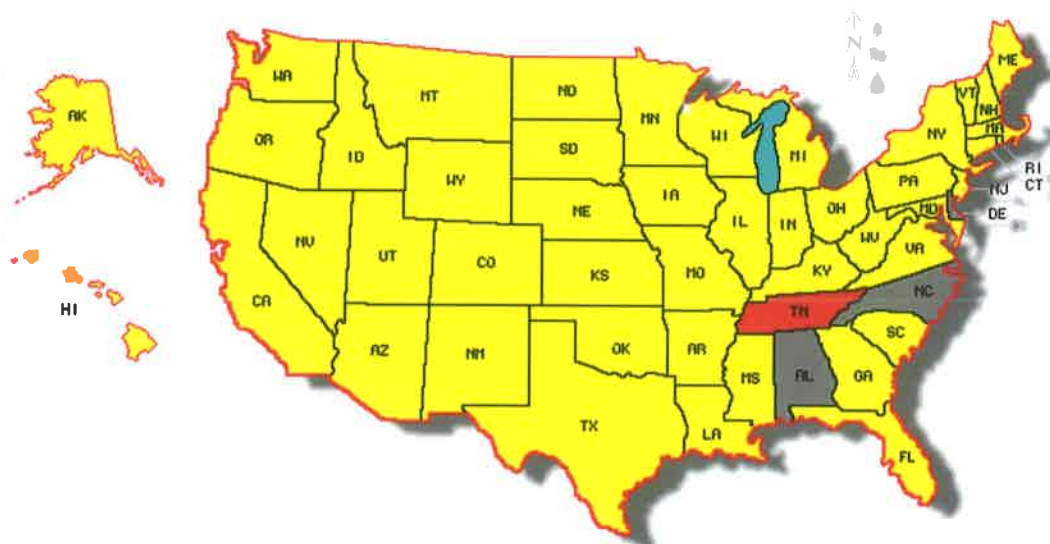
Other:

- **Alabama** (requiring a bachelor’s degree prior to starting law school if the applicant did not graduate from a law school accredited by the American Bar Association or the Association of American Law Schools). Ala. R. Gov’g Admis. Bar Rule IV.
- **Delaware** (requiring applicants who attended law school prior to attaining a baccalaureate or equivalent degree to supply a copy of the “law school’s statement of considerations...setting forth the basis for the law school’s decision to admit” the candidate before the candidate received a degree.) Del. Sup. Ct. R. 52.
- **North Carolina** (requiring applicants to have satisfactorily completed the academic work required for admission to a law school approved by the Council of the North Carolina State Bar). N.C. R. Gov’g Admis. to Practice Law Rule .0701.

MAP OF UNITED STATES BY REQUIREMENT

States that Do/Do Not Require a Bachelor's Degree Prior to Legal Class

- - Does Not Require
- - Does Require
- - Other/Hybrid



Source: dlymaps.net (c)

WALDO E. RASSAS
1910-2001

MARK A. RASSAS
Certified as a Specialist in Civil Trial Advocacy
by the National Board of Trial Advocacy
Rule 31 Listed Mediator

JULIA P. NORTH
Admitted in Tennessee and Michigan

BLAISE E. FERRARACCIO, J.D., M.D.
Of Counsel

Rassas, North & Associates

ATTORNEYS AT LAW

120 SOUTH SECOND ST., GLENN BUILDING, SUITE 101
P.O. BOX 361
CLARKSVILLE, TENNESSEE 37041-0361

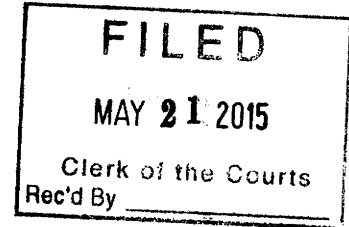
(931) 645-4044

FAX (931) 648-4525

EMAIL: Rassaslaw@aol.com

May 18, 2015

Tennessee Supreme Court
Public Comment
James Hivner, Clerk
100 Supreme Court Building
401 Seventh Avenue North
Nashville, TN 37219-1407



ADM2015-00443

**Re: *Amendment of Rules 6, 7, and 8 (RPC 5.5)
Rules of the Tennessee Supreme Court
and
Practice by Military Spouses***

Dear Honorable Members of the Tennessee Supreme Court:

I have recently been contacted by a military spouse, who is also an attorney, but not licensed to practice in the State of Tennessee. She is seeking my support for a change to the Rules of the Tennessee Supreme Court, which would allow for her temporary admission to the Tennessee Bar, waiving the requirement of successful completion of the Bar examination, or the requirement for five years of experience.

I served for 30 years as a military attorney, both on active duty and in the reserve, retiring at the rank of Colonel. Over the course of my service, I spent 18 years working in the Office of the Judge Advocate General (JAG) at Fort Campbell, serving as Chief of the legal division during the first Gulf War. Over the years, I have found JAG attorneys to be some of the most conscientious, dedicated and qualified attorneys with whom I have ever known. I have also found that JAG attorneys who were not admitted to the Tennessee Bar, and only in this area for three to four years on military duty, made obvious mistakes in advising clients on local and state practice. For example, one of the highest ranking attorneys in the JAG Corps attempted to draft a pro se divorce complaint, merely by review of the statute, which simply did not work and resulted in a very frustrated client.

As a practicing attorney in Tennessee for almost 40 years, and a longstanding District Investigating Committee member for the Tennessee Bar Examiners, I have significant concerns about the waiver provision sought. I believe that the Rule change as proposed is overly broad and does not provide enough protection for either the attorney, or the public. In addition, this proposal may open the door to other non Tennessee attorneys who seek to practice in Tennessee under different, but "special" circumstances.

As an alternative, I suggest a streamlined pro hoc vice procedure for military spouses, under the supervision of a licensed Tennessee attorney, which would enable them to practice in Tennessee with reasonable safeguards. From my review, it appears that half of the states with spouse practice rules impose either supervision or a years of practice requirement (Idaho, Arizona, Virginia, Massachusetts, New York, North Carolina).

It is certainly a waste of talent and resources for a licensed attorney to move to Tennessee with their military spouse and not be allowed to practice without taking the Tennessee Bar exam, when they may relocate within a relatively short period of time. I applaud the proponents of a Rule change, but believe that some form of supervision or mentorship by a licensed Tennessee attorney is a reasonable safeguard.

Montgomery County is the home of Fort Campbell and would be most impacted by any rule change. Involvement by regularly licensed Tennessee attorneys should not be seen as a barrier to Bar admission, but rather a safeguard for the public and a resource to the military spouse.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Mark A. Rassas', with a large, sweeping flourish extending to the right.

Mark A. Rassas
Colonel (RET, USA)

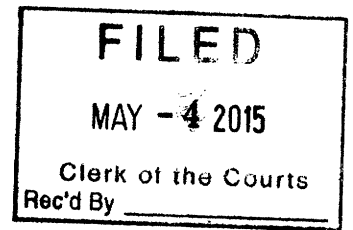
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Michael J. Thompson Law

ATTORNEY AT LAW
Licensed in Kentucky & Tennessee



Adm 2015-00443

P: (270)-439-1175 F: (270)-439-1177 | 244 Thompsonville Lane, Oak Grove, KY 42262

April 29, 2015

To whom it may concern:

My name is Megan DeZotell Sarrail and I am writing this letter in support of the amendment to the Tennessee Supreme Court Rules 6, 7, and 8 (RPC 5.5). I am currently a California licensed attorney and my husband is stationed at Fort Campbell. Since my move to Tennessee, I have been working as a paralegal in Oak Grove, Kentucky at the Thompson Law Office. Because of the length of time it takes to take the bar exam, receive the results, and get sworn in and because of the possibility that my husband may only be stationed at Fort Campbell for a short period of time, I have chosen not to take the bar exam in Tennessee or Kentucky at this time.

It is unfortunate that military spouses licensed in other jurisdictions have to face the dilemma of choosing to spend the time and money to take another bar exam when there is a possibility that their spouse may be stationed elsewhere within the time it takes to receive bar results.

The new amendment would help military spouses, such as myself, be able to temporarily practice in the jurisdiction so that we do not have to compromise our hard-earned professions while living a mobile military lifestyle. The new amendment also allows attorneys, like myself, to continue to practice while waiting for bar results if our spouses choose to retire and we remain in the jurisdiction. This gives great flexibility to military spouses who want to maintain the integrity of their legal careers while making the decision to remain in the jurisdiction after their spouse's retirement.

This amendment is a great proposal that supports the careers of military spouses who have made the difficult decision to place their spouses and their spouse's military career before their own. This amendment allows us not to compromise and gives us the ability to support our spouses while earning the living that we originally intended when becoming licensed to practice law in our home jurisdiction.

For any additional information or questions, I can be contacted by email at megan.dezotell@gmail.com, by phone at (805) 279-9235, and by mail at 636 Fox Hound Drive, Clarksville, TN 37040.

Sincerely,

Megan DeZotell Sarrail, CA Bar #278458

ORIGINAL

FILED

IN THE SUPREME COURT OF TENNESSEE AT NASHVILLE

2015 APR -6 PM 1:42

IN RE: PETITION TO AMEND)
TENNESSEE SUPREME COURT)
RULES 6, 7 and 8, RPC 5.5)

No.: ADMIN2015443
SUPREME COURT CLERK
NASHVILLE

AMENDMENT TO PETITION TO AMEND TENNESSEE SUPREME COURT
RULES 6, 7 AND 8 (RPC 5.5) GOVERNING ADMISSION AND LICENSING
OF ATTORNEYS

The undersigned attorneys hereby respectfully petition this Honorable Court to amend Tennessee Supreme Court Rule 7 ("Rule 7") to allow for the temporary admission of qualified attorney spouses of active duty servicemembers in the United States Uniformed Services ("servicemember(s)") while in Tennessee or at Fort Campbell, Kentucky, due to military orders of the servicemember spouse. The rule proposed by this petition ("This Petition") is set forth in Exhibit A hereto and is proposed to be inserted in Rule 7, under Article V. Persons Admitted in Other Jurisdictions Seeking Waiver of Examination, as "Section 5.03. Temporary Admission for Attorney Spouses of Servicemembers." Further, the undersigned attorneys ask that This Petition and proposed rule be an amendment to the above captioned petition submitted by the Tennessee Board of Law Examiners ("TBLE") on March 12, 2015, currently pending comment and consideration by this Honorable Court.

In support of This Petition, the undersigned attorneys would respectfully show as follows:

1. Procedure.

At this time, this Honorable Court has pending before it a petition, submitted by the TBLE on March 12, 2015, to amend Tennessee Supreme Court Rules 6, 7 and 8 governing admission and licensing of attorneys. Since the proposal in This Petition addresses the temporary admission of attorneys with spouses in the United States Uniformed Services via an amendment to Rule 7, it is appropriate to consider it along with the other proposed amendments to Rule 7 presented in the TBLE's pending petition. The TBLE received a request in August 2014 to consider this issue, has been provided with a copy of the proposed rule, and has had adequate notice of it. This Petition is timely submitted and sufficient time remains to allow for public comment on it prior to July 31, 2015, the deadline for public comment on TBLE's pending petition. Therefore, This Petition should be considered with the petition currently pending before the Court.

2. Background.

Attorney spouses of active duty servicemembers ("attorney spouse(s)") face significant barriers in their ability to practice in the legal profession as a consequence of the frequent changes in military duty assignments of their servicemember spouses. The proposed rule seeks to address those barriers and

serves the important public policy interest in supporting military servicemembers and their families through a common sense licensing accommodation that provides a temporary license to practice law while the attorney spouse is in Tennessee due to military orders of his or her servicemember spouse.

This is an extraordinary time in our country. We are engaged in an enduring war in the Middle East and Southwest Asia requiring repeated extended deployments for our servicemembers each year. With reduced funding of the military, their ranks are reduced and they have more frequent deployments. Recruitment and retention challenges, inherent in an all-volunteer force, pose an additional impact upon servicemembers often necessitating frequent changes in duty stations across and outside the country. These factors impose incredible pressure on servicemember families and are magnified by frequent and lengthy familial separations for combat deployments.

In addition to the pressures that servicemember families face, attorney spouses also bear a unique burden that limits their ability to practice their profession: the requirement that they must be authorized to practice law in the jurisdiction where they are practicing. When servicemember spouses receive orders for a change in duty assignment, attorney spouses are faced with the untenable choice of remaining in the previous jurisdiction without their servicemember spouse in order to maintain their practice, or relocating with their servicemember spouse to

a jurisdiction where they are not authorized to practice law. This Petition and the proposed rule remove this obstacle and provide a reasonable accommodation through a temporary law license.

An attorney spouse's ability to maintain a career can be a critical factor in a servicemember's determination as to whether to continue service in the military. This provides an additional compelling public policy justification for the reasonable accommodation provided by the proposed rule.

Military families can expect to move every two to three years; in fact, 79 percent of military families have moved across state lines in the past five years.¹ Moves are based on the needs of the military service without regard for bar exam deadlines or licensing restrictions. Frequent moves make it nearly impossible for an attorney spouse to fulfill experience requirements for reciprocity or comity admission. For attorney spouses, this means that while 80 percent maintain an active law license, only 34 percent work full time in a job requiring a license.² Four out of five attorney spouses report that their servicemember spouse's military service has negatively impacted their legal career. Half of attorney spouses have lived apart from their servicemember spouse (excluding deployments) in order to

¹ Military Officers Association of America & Institute for Veterans and Military Families at Syracuse University, *Military Spouse Employment Report* (February 2014), available at <http://vets.syr.edu/research/research-highlights/milspouse-survey/>.

² Military Spouse JD Network, *2013 Member Survey Report of Findings* (January 2014), available at <http://www.msjudn.org/wp-content/uploads/2014/02/MSJDN-Survey-Report.pdf>.

maintain their legal career.

Since 2011, the Military Spouse JD Network has been working with state bar licensing authorities to enact common sense licensing accommodations to ease the burdens attorney spouses face when maintaining their legal career. Most state law licensing bodies already have a provision for admission without examination for in-house counsel, law professors, or pro bono attorneys. These provisions represent good public policy decisions made by states to provide an exception to the normal route to licensure. To date, twelve states have enacted rules or policies aimed at enabling attorney spouses to continue their legal practice when their servicemember spouse has been assigned for duty within their state without the need for bar examination, avoiding further separation and stress upon the military family.³ These states recognize the importance of reducing licensing barriers for military spouses, representing another good policy decision. This Petition is further supported by public policies in federal law recognizing the important justification for reasonable accommodation for servicemembers and their service to our nation.⁴

The licensing accommodations provided in those states for attorney spouses typically require applicants to have been admitted to the practice of law in another

³ See Exhibit B: Military Spouse Rule Changes & Policies and Their Impact on the Bar.

⁴ See, e.g., Family and Medical Leave Act of 1993, 29 U.S.C. § 2601, as amended by Section 565 of the National Defense Authorization Act for Fiscal Year 2010, Pub.L. 111-84, to provide for exigency and military caregiver leave for employees of servicemembers; and the Uniformed Services Employment and Reemployment Rights Act of 1994, Pub.L. 103-353, 28 U.S.C. §§ 4301-4335.

state, to be in good standing with no disciplinary actions in all jurisdictions admitted, to possess the moral character and fitness required for admission, and to comply with continuing legal education and license maintenance requirements of the accommodating state. The rule proposed in This Petition strikes a careful balance, providing a temporary admission procedure to enable attorney spouses to continue their careers with minimal disruption to their families while maintaining the high standards of the legal community within Tennessee. The number of attorney spouses availing themselves of similar rules has been small; thus, this proposed rule will not be administratively burdensome for Tennessee.⁵

A report and proposal was originally sent to the TBLE in August of 2014 (Exhibit C). Since that time, and in collaboration with the legal community of Tennessee, the rule proposed by This Petition was developed. The proposed rule has achieved increasing support of legal communities across Tennessee. The Boards of the Lawyers' Association for Women Marion Griffin Chapter, Memphis Bar Association, Nashville Bar Association, and Knoxville Bar Associations have all endorsed resolutions of support for temporary military spouse attorney licensure (Exhibit D). Additionally, over 100 military veteran attorneys from Nashville and Knoxville have individually voiced their support for the rule. The list includes 13 active and retired state and federal judges (Exhibit E).

⁵ *Id.*

The American Bar Association, Conference of Chief Justices, the White House, U.S. Chamber of Commerce, Military Officers Association of America and National Military Family Association all support comparable rules and have encouraged state licensing authorities to implement rules allowing admission without examination for attorney spouses of servicemembers.

One of the undersigned, Ms. Josie Beets, is representative of the problem often confronting attorney spouses of servicemembers. Her husband has served on active duty in the United States Army since 2008. She is licensed in Louisiana, the jurisdiction of her husband's first duty station with the military, where she practiced for three years. In 2012, Ms. Beets' husband was reassigned to Fort Campbell. Since her husband anticipated being reassigned for duty elsewhere within a couple of years, applying and going through the process for a Tennessee license was not time-efficient or cost-effective. This summer, Ms. Beets' servicemember spouse will again be reassigned, this time for military duty in Virginia, and she will be faced with the same predicament again before their next reassignment.

Adoption of this proposed rule is consistent with public policy recognizing the importance of reasonable accommodation to enable and support the ability of servicemembers to perform their military service. Adoption of the proposed rule is also a tangible way this Honorable Court and the Tennessee legal community can

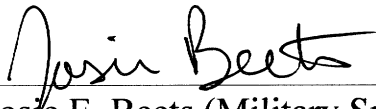
express its support for the military, their families, and women attorneys, who are by far the largest component of attorney spouses. This is an opportunity to embrace our reputation as the Volunteer State and the state that gave American women the right to vote.

3. Proposed Rule Change.

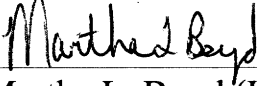
i) *Rule 7, Section 5.03.* Adding this provision would provide attorney spouses of servicemembers in the Uniformed Service the ability to apply for a temporary license to practice while in the state of Tennessee pursuant to military orders. It requires the applicant to have been admitted after examination in another state, possess the moral character and fitness required of all applicants, and be a member in good standing in each jurisdiction licensed. It provides for the timely termination of the license at either the end of a three-year period or upon specific events triggering expiration, such as permanent relocation of the servicemember or divorce. A copy of the amended Rules delineating the deletions, additions and changes, is attached hereto as "Exhibit A."

Wherefore, for the foregoing reasons, the undersigned attorneys respectfully request that this Honorable Court to enter an Order amending Tennessee Supreme Court Rule 7, as set forth herein.

Respectfully submitted,



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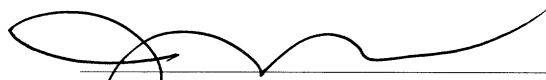
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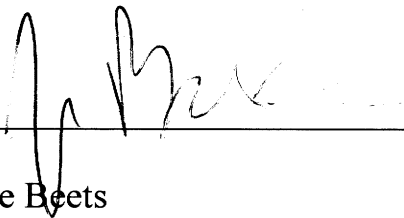
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CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of This Amendment to Petition to Amend Tennessee Supreme Court Rules 6, 7 and 8 (RPC 5.5) has been served upon the individuals and organizations identified in "Exhibit F" by regular U.S. Mail, postage prepaid first class mail within seven (7) days of filing with the Court.



Josie Beets

EXHIBIT A

Rule 7. Licensing of Attorneys.

.....

ARTICLE V. – Persons Admitted in Other Jurisdictions Seeking Waiver of Examination

.....

Section 5.03. Temporary Admission for Attorney Spouses of Servicemembers

(a) Qualifications. An applicant who is the spouse of an active duty servicemember of the United States Uniformed Services as defined by the United States Department of Defense may be temporarily admitted as an attorney of this State, without examination, provided that the applicant:

(i) has been admitted, after examination, as an attorney of another state, commonwealth, or territory of the United States with educational qualifications for admission to the bar equivalent to those of this State; and

(ii) possesses the moral character and fitness required of all applicants for admission in this State; and

(iii) has not failed the Tennessee bar examination; and

(iv) resides in Tennessee or Fort Campbell, Kentucky, due to the servicemember's military orders; and

(v) is at the time of application an active member of the bar in good standing in

at least one jurisdiction of the United States; and

(vi) is a member of the bar in good standing in every jurisdiction to which the applicant has been admitted to practice, or has resigned or been administratively revoked while in good standing from every jurisdiction without any pending or later disciplinary actions.

(b) Application for Temporary Admission. An application for temporary admission shall be made, without fee required, to the Board of Law Examiners, in accordance with its rules. Upon receipt of an application for temporary admission, the Board of Law Examiners shall expeditiously determine whether the applicant meets each of the requirements set forth in paragraph (a) of this Section, and present the application to the Clerk of the Supreme Court for appropriate disposition. In addition to the completed application, the applicant must submit:

(i) a completed character questionnaire;

(ii) a copy of the Applicant's Military Spouse Dependent Identification;

(iii) documentation evidencing a spousal relationship with the servicemember;

and

(iv) a copy of the servicemember's military orders to a military installation in Tennessee or Fort Campbell, Kentucky, or a letter from the servicemember's command verifying that the requirement in paragraph (a)(4) is met;

(v) Certificate(s) of Good Standing and of Disciplinary History(ies) to

demonstrate satisfaction of the requirements of (a)(6) of this rule;

(vi) all other documentation as required in the character application process by the Board of Law Examiners.

(c) Duration and Extension.

(i) A temporary license to practice law issued under this rule will be valid for three years and will terminate as set forth in paragraph (e) below. Holders of a temporary license have an affirmative duty to immediately notify the Board of Law Examiners within thirty (30) days upon occurrence of any event in paragraph (e)(5)-(8) which will cause the temporary license to expire.

(ii) Persons who hold a temporary license under this provision may apply, without additional fee, for a two-year extension to their license if they submit an application for extension verifying that they continue to meet all of the qualifications for a temporary license as set forth in paragraph (a) above.

Requests for extension must be submitted to the Board of Law Examiners at least one month prior to the expiration of the temporary license and must include a copy of the servicemember's military orders or a letter from the servicemember's command verifying that the requirement in paragraph (a)(4) is met. Requests for extension must be approved by the Board of Law Examiners and approved by the Supreme Court to be effective.

(d) Practice Requirements. During the duration of the temporary license, the

temporary attorney shall: (1) comply with the rules of the Supreme Court of the State of Tennessee; (2) comply with the registration requirements as required for all Tennessee licensed attorneys; and (3) make payment of annual assessments as required of all Tennessee licensed attorneys.

(e) Termination. The temporary license shall expire:

(i) upon the temporary attorney's failure to meet any licensing requirements applicable to all active attorneys possessing a license to practice law in this state;

or

(ii) upon the request of the temporary attorney; or

(iii) upon the issuance to the temporary attorney of a Tennessee license under Article III (by examination) or Article V (by comity admission) of these rules; or

(iv) upon receipt by the temporary attorney of a failing score on the Tennessee bar examination; or

(v) six months following the date of permanent relocation of the servicemember outside of Tennessee or Fort Campbell, Kentucky, except when such relocation is due to unaccompanied orders for a permanent change of station outside of Tennessee; or

(vi) six months following the date of termination of the temporary attorney's spousal relationship to the servicemember; or

(vii) if the temporary attorney ceases to reside in Tennessee or Fort Campbell,

six months following the date when the temporary attorney ceased to reside in Tennessee or Fort Campbell; or

(viii) six months following the date of the servicemember's death, separation or retirement from the United States Uniformed Services; or

(ix) one year following the date of the event of the servicemember's death, separation or retirement from the United States Uniformed Services, or divorce or marital separation from the servicemember, provided that during the first six months following the date of such event the temporary attorney applies to sit for the Tennessee bar examination.

EXHIBIT B

MILITARY SPOUSE RULE CHANGES & POLICIES AND THEIR IMPACT ON THE BAR

State	Rule/Policy	Date Adopted	Supervision Requirement	Years of Practice Requirement	Duration of License	Spouses Admitted Per Rule Jan. 2015
Idaho	<u>Rule 229</u>	April 2012	Yes	No	1 year (renewable)	1
Arizona	<u>Rule 38(i)</u>	Dec. 2012	Yes	No	1 year (renewable)	0
Texas	<u>Rule XXII</u>	Feb. 2013	No	No	Permanent	3
North Carolina	<u>Rule .0503</u>	March 2013	No	Yes ¹	Permanent	2
Illinois	<u>Rule 719</u>	July 2013	No	No	Ends conditionally ²	2
South Dakota	<u>Rule 13-10</u>	Sept. 2013	No	No	Permanent	0
Virginia	<u>Rule 1A:8</u>	May 2014	Yes	No	1 year (renewable)	2
Massachusetts	No formal rule	March 2014	No	Yes ³	Permanent	1
Colorado	<u>Rule 204.4</u>	June 13, 2014	No	No	Ends conditionally ⁴	2
New Jersey	<u>Rule 1:27-4</u>	July 22, 2014	No	No	2 years (renewable)	0
New York	No formal rule	Unknown	No	Yes ⁵	Permanent	1
Oklahoma	<u>Rule 2, Section 7</u>	Jan. 2015	No	No	Ends conditionally ⁶	1 pending

¹ Requires active engagement in the full-time practice of law for 4 out of 8 prior years.

² Illinois license shall terminate upon the following: the service member is no longer a member of the military; the military spouse attorney is no longer married to the service member; a change in the service member's military orders reflecting a permanent change of station to a military installation other than Illinois, except that if the service member has been assigned to an unaccompanied or remote assignment with no dependents authorized, the military spouse attorney may continue to practice pursuant to the provisions of this rule until the service member is assigned to a location with dependents authorized; or the lawyer is admitted to the practice of law under any other rule of the Court.

³ Massachusetts generally requires, for admission on motion, that the attorney be in practice for 5 out of the 7 prior years; however, the Massachusetts Board of Bar Examiners may support a waiver of this requirement on a case-by-case basis for qualified applicants that are military spouse attorneys (and may expedite the character review process). Telephone conversation with Marilyn Wellington, Executive Director, Massachusetts Board of Bar Examiners, Friday, May 23, 2014.

⁴ Colorado license shall terminate when: the service member is no longer a member of the military; military spouse attorney is no longer a spouse of the service member; (the service member receives a transfer outside Colorado, except that if the service member has been assigned to an unaccompanied or remote assignment (no dependents authorized), the military spouse attorney may continue to practice law until the service member is assigned to a location with dependents authorized; the military spouse is disciplinarily suspended or disbarred or placed on disability inactive status in any jurisdiction, court, or agency before which the attorney is admitted; or the military spouse is suspended in any jurisdiction for failure to pay child support or failure to cooperate in a disciplinary matter.

⁵ New York generally requires, for admission on motion, that the attorney practice for 5 out of the 7 prior years; however, the New York Board of Bar Examiners may support a waiver of this requirement on a case-by-case basis for qualified applicants that are military spouse attorneys. Telephone conversation with John McAlary, Executive Director, New York Board of Bar Examiners, Friday, August 1, 2014.

⁶ Oklahoma license shall terminate upon termination of the military status of either the dependent or the service member; or, in the event of a military transfer outside of Oklahoma, the right of such person to practice law in the Oklahoma shall terminate unless such person shall have been admitted to practice law in the state under some other rule.

EXHIBIT C

REPORT & PROPOSED RULE:

**REVISIONS TO TENNESSEE'S LICENSE REQUIREMENTS
IN SUPPORT OF MILITARY SPOUSE ATTORNEYS**

AUGUST 8, 2014



MILITARY SPOUSE JD NETWORK

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§ Licensed in Louisiana; Tennessee Co-Director, Military Spouse JD Network.

** Licensed in Texas (pending in Tennessee); Tennessee Co-Director, Military Spouse JD Network.

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ADDENDUM 3: ARIZONA RULE

ADDENDUM 4: TEXAS LICENSE PORTABILITY FOR MILITARY SPOUSES POLICY

ADDENDUM 5: NORTH CAROLINA RULE

ADDENDUM 6: ILLINOIS RULE

ADDENDUM 7: SOUTH DAKOTA RULE

ADDENDUM 8: VIRGINIA RULE

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ADDENDUM 10: COLORADO RULE

ADDENDUM 11: NEW JERSEY RULE

ADDENDUM 12: NEW YORK POLICY

Summary

This report (this “Report”) encourages the Tennessee Supreme Court to adopt Rule 5.04 as set forth in Addendum 1 (the “Proposed Rule”), proposed by the Military Spouse JD Network (“MSJDN”), a bar association for attorneys married to U.S. military servicemembers (“military spouse attorneys”).⁶ The rule provides for admission to the Tennessee bar of qualified military spouse attorneys who can establish that their servicemember is on military orders in the State of Tennessee or at Fort Campbell, Kentucky, and explicitly provides that military spouse attorneys will be subject to the same rules and regulations, including the rules of professional conduct, applicable to all other Tennessee-barred attorneys. The Proposed Rule provides an opportunity for Tennessee to demonstrate its support of military families while maintaining the high professional standards of the legal profession.

In July 2012, the Conference of Chief Justices passed a Resolution in support of military families.⁷ The Resolution urges bar admission authorities to participate in the development and implementation of rules permitting admission without examination for qualified attorneys who are dependents of servicemembers of the United States Uniformed Services. Recognizing that frequent geographic relocations are required of military families, admission without examination permits military spouses to continue to contribute to our profession and to support their families while their servicemembers are stationed across the country. Reducing licensing barriers in all states will improve the well-being of military families upon whose service our country’s defenses depend.

In February 2012, the American Bar Association (the “ABA”) passed a resolution urging states to adopt rules, regulations, and procedures that accommodate the unique needs of military spouse attorneys.⁸ First Lady Michelle Obama encouraged more states and professional associations to follow the ABA’s lead.⁹ At the same time, the Department of Defense (the “DoD”) issued a report highlighting the impact of state licensing requirements on the careers of military spouses and on military readiness.¹⁰

Eleven states have created new policies or passed favorable rule accommodations for military spouse attorneys.¹¹

- Eight states enacted rule changes through their state supreme courts.
 - *Idaho*: In January 2012, the Idaho Supreme Court approved the first rule providing for the admission of military spouse attorneys while they reside in Idaho on military orders.¹²

⁶ MSJDN advocates for initiatives that improve the lives of military families, including licensing accommodations for military spouses.

⁷ CONFERENCE OF CHIEF JUSTICES, *Resolution 15*, available at <http://ccj.ncsc.org/~media/Microsites/Files/CCJ/Resolutions/07252012-Encouraging-Adoption-of-Rules.ashx> (last visited July 31, 2014).

⁸ AMERICAN BAR ASSOCIATION HOUSE OF DELEGATES, *Resolution 108*, available at http://www.americanbar.org/content/dam/aba/administrative/house_of_delegates/resolutions/2012_hod_midyear_meeting_108.doc (last visited July 31, 2014).

⁹ *Remarks by the First Lady and Dr. Biden On Military Spouse Licensing*, available at <http://www.whitehouse.gov/the-press-office/2012/02/15/remarks-first-lady-and-dr-biden-military-spouse-licensing>; see also *Remarks by the First Lady and Dr. Biden Discussing Military Spouse Employment at National Governors Association Annual Meeting*, available at <http://www.whitehouse.gov/photos-and-video/video/2012/02/27/first-lady-michelle-obama-and-dr-jill-biden-speak-military-spouse-#transcript> (last visited Nov. 15, 2013).

¹⁰ DEPT. OF DEFENSE AND DEPT. OF THE TREASURY, *Supporting Our Military Families: Best Practices for Streamlining Occupational Licensing Across State Lines*, available at http://www.defense.gov/home/pdf/Occupational_Licensing_and_Military_Spouses_Report_vFINAL.PDF (last visited Nov. 15, 2013).

¹¹ MILITARY SPOUSE JD NETWORK STATE RULE CHANGE INITIATIVES, available at <http://www.msjdn.org/rule-change/> (last visited July 30, 2014).

¹² Press Release, MILITARY SPOUSE JD NETWORK, *First State Approves Military Spouse Admission*, available at <http://www.msjdn.org/2012/04/first-state-approves-military-spouse-attorney-admission/> (last visited Nov. 15, 2013).

- *Arizona*: Similarly, in December 2012, the Arizona Supreme Court approved a similar rule admitting military spouse attorneys to practice.¹³
- *North Carolina*: In April 2013, North Carolina modified its comity licensure requirements for military spouse attorneys who can prove that they reside in the state due to their spouses' military orders.¹⁴
- *Illinois*: In June 2013, Illinois became the fifth state to pass a rule allowing military spouse attorneys to obtain a license while in the state with their spouse on military orders.¹⁵
- *South Dakota*: In September 2013, the South Dakota Supreme Court approved a rule, proposed by the Governor, allowing military spouse attorneys to obtain licenses while they reside with their servicemembers in the state.¹⁶
- *Virginia*: In May 2014, Virginia passed its military spouse attorney rule.¹⁷
- *Colorado*: Colorado followed suit in June 2014; its rule will be effective September 1, 2014.¹⁸
- *New Jersey*: After hearing oral arguments on the issue, the New Jersey Supreme Court enacted its rule for military spouse attorneys in July 2014, to be effective September 1, 2014.¹⁹ (See Addenda 2 through 11, respectively, for the full text of each rule listed above).
- Three states enacted policies without a formal rule change so that consideration of military spouse applications could begin immediately. In February 2013, Texas was the first,²⁰ followed by Massachusetts²¹ and New York.²²
- Twelve other states currently considering similar rule accommodations, including: Alabama, Alaska, California, Delaware, Florida, Georgia, Indiana, Maryland, Ohio, Oklahoma, Oregon, and Utah.

¹³ Press Release, MILITARY SPOUSE JD NETWORK, *Arizona Supreme Court Recognizes Service of Military Spouse Attorneys*, available at <http://www.militaryspousejdnetwork.org/apps/blog/arizona-supreme-court-recognizes-service-of-military> (last visited Nov. 15, 2013).

¹⁴ Press Release, MILITARY SPOUSE JD NETWORK, *MSJDN Reform Efforts Succeed in Fourth State*, available at <http://www.msjudn.org/2013/04/msjudn-reform-efforts-succeed-in-fourth-state/> (last visited Nov. 15, 2013).

¹⁵ Press Release, MILITARY SPOUSE JD NETWORK, *Illinois Becomes the Fifth State to Support Military Spouses in the Legal Profession*, available at <http://www.msjudn.org/2013/06/illinois-becomes-fifth-state-to-support-military-spouses-in-the-legal-profession/> (last visited Nov. 15, 2013).

¹⁶ Press Release, MILITARY SPOUSE JD NETWORK, *South Dakota Becomes Sixth State to Adopt a Military Spouse Attorney Rule*, available at <http://www.msjudn.org/2013/09/south-dakota-becomes-sixth-state-to-adopt-a-military-spouse-attorney-rule/> (last visited Nov. 15, 2013).

¹⁷ Press Release, MILITARY SPOUSE JD NETWORK, *Virginia Adopts Military Spouse Rule, Joins Growing Number of States Supporting Military Spouse Attorneys*, available at <http://www.msjudn.org/2014/05/virginia-adopts-military-spouse-rule-joins-growing-number-of-states-supporting-military-spouse-attorneys/> (last visited May 26, 2014).

¹⁸ Press Release, MILITARY SPOUSE JD NETWORK, *Colorado Becomes Ninth State to Support Military Spouse Attorneys with a Licensing Accommodation*, available at <http://www.msjudn.org/2014/06/colorado-becomes-ninth-state-to-support-military-spouse-attorneys-with-a-licensing-accommodation/> (last visited July 29, 2014).

¹⁹ Press Release, MILITARY SPOUSE JD NETWORK, *New Military Spouse Rule Adopted in New Jersey*, available at <http://www.msjudn.org/2014/07/military-spouse-rule-adopted-in-new-jersey/> (last visited July 29, 2014).

²⁰ Press Release, MILITARY SPOUSE JD NETWORK, *Texas Becomes First State to Initiate Recognition to Attorney Military Spouses and Their Services*, available at <http://www.msjudn.org/2013/02/texas-becomes-first-state-to-initiate-recognition-of-attorney-military-spouses-and-their-service/> (last visited Nov. 15, 2013).

²¹ Massachusetts Board of Bar Examiners, *Instructions for Attorney Bar Applicants*, available at <http://www.mass.gov/courts/court-info/sjc/attorneys-bar-applicants/bbe/> (last visited May 26, 2014). In March 2014, the Massachusetts Board of Bar Examiners voluntarily enacted a military spouse attorney licensing policy. *Id.*

²² Press Release, MILITARY SPOUSE JD NETWORK, *New York State of Mind: 11th State Adopts Military Spouse Attorney Licensing Policy*, available at <http://www.msjudn.org/2014/08/newyorkpolicy/> (last visited Aug. 6, 2014). The New York Board of Law Examiners (BOLE) recently published a military spouse attorney licensing policy. The New York BOLE encourages military spouse attorneys to contact the Executive Director and seek a waiver of the strict requirements of Section 520.14 of the Rules of Court for admission on motion. *Id.*

Accommodating the unique needs of military spouse attorneys comes at little cost to the state but makes a meaningful difference in the financial and personal well-being of military families. While the number of military spouse attorneys may not be large,²³ approval of this Proposed Rule would send a message of support to the entire Tennessee military community.

Tennessee's Historic Support of the Military Community

The legal profession has a long history of ensuring that legal procedures do not unduly prejudice servicemembers and their families.²⁴ The Soldiers' and Sailors' Civil Relief Act of 1940²⁵ was amended in 1942 to add a section specifically extending certain protections to military dependents, including spouses, "to avoid situations in which dependents suffered as a result of the servicemember's period of service."²⁶ A number of amendments to the Servicemembers Civil Relief Act have increased the protections available to both servicemembers and their families. Tennessee has continued this tradition; in 2011, it passed legislation to ease licensing burdens on military spouses in professions where the state licensing body is governed by the state legislature.²⁷

The Tennessee legal community has steadfastly demonstrated its deep support for servicemembers and their families. In 2012, the Tennessee Bar Association's ("TBA") Access to Justice Committee launched "Hometown Support," a program to provide free legal help to servicemembers and their families with limited income facing legal problems in Tennessee.²⁸ The program, a collaborative effort among volunteer attorneys, the TBA, the Tennessee National Guard, and legal services offices statewide, evidences broad support for the Tennessee active duty community.

In 2012, the Tennessee Supreme Court, with the encouragement of the Tennessee legislature, authorized several state courts to serve justice-involved veterans.²⁹ These courts were awarded additional funds to operate in 2013, and continue to be a model for the rest of the state.³⁰ In 2013, the Tennessee Legislature voted to continue funding unemployment benefits for spouses of transferred military servicemembers, rendering Tennessee one of forty-four states to provide such protections for active duty military families.³¹

²³ The Military Spouse JD Network has identified over 1000 military spouse attorneys worldwide as of May 2014.

²⁴ "During the Civil War, Congress enacted legislation suspending any statute of limitations where the war worked to thwart the administration of justice. In World War I, the Soldiers' and Sailors' Civil Relief Act of 1918 directed trial courts to take whatever action equity required when servicemembers' rights were involved in a controversy." The Judge Advocate General's Legal Center & School, U.S. Army, JA 260, *Servicemembers Civil Relief Act* at 1-1 (Mar. 2006) (citations omitted) (hereinafter "JAG SSCRA Report"), available at www.americanbar.org/content/dam/aba/migrated/legalservices/lamp/downloads/SCRAguide.authcheckdam.pdf (last visited Nov. 15, 2013).

²⁵ 54 Stat. 1178 (1940).

²⁶ JAG SSCRA Report at 4-1.

²⁷ Tennessee 107th General Assembly, *Public Chapter 230*, available at <http://state.tn.us/sos/acts/107/pub/pc0230.pdf> (last visited July 29, 2014).

²⁸ Journal News, *Hometown Support Provides Legal Help for Military*, available at <http://www.tba.org/journal/news-7> (last visited March 30, 2014).

²⁹ Press Release, Tennessee Supreme Court, *Veterans Court Comes to Clarksville*, available at <https://www.tncourts.gov/news/2012/07/18/veterans-court-comes-clarksville>, (last visited March 30, 2014).; Press Release, TN Supreme Court, *Shelby County Forms Veterans Court*, available at <https://www.tncourts.gov/news/2012/07/30/shelby-county-forms-veterans-court> (last visited March 30, 2014).

³⁰ Press Release, Tennessee Supreme Court, *Shelby, Montgomery Veterans Courts Receive Boost With Commission Funding*, available at <http://www.tncourts.gov/press/2013/04/08/shelby-montgomery-veterans-courts-receive-boost-commission-funding> (last visited March 30, 2014).

³¹ Press Release, Tennessee Labor and Workforce Development, *Legislature renews funding of unemployment benefits for spouses of transferred military service members*, available at <https://news.tn.gov/node/10607> (last visited March 30, 2014)

The Military Spouse J.D. Network, through this Report, calls on Tennessee to continue its tradition of supporting the military community by adopting the Proposed Rule to recognize the obstacles faced by those military spouses who are members of the legal community. The legal community should recognize the sacrifices of military families within its own ranks by eliminating the licensing restrictions burdening military spouses.

Unique Challenges Faced by Military Spouse Attorneys

The unemployment rate for military spouses is three times as high as their civilian counterparts.³² High rates of unemployment and underemployment of military spouses impact the entire family and are primarily the result of frequent geographic relocations of military families.³³ Military spouse licensing and employment in all professions are a DoD priority because they impact retention, readiness, and family well-being.

Military spouses are ten times more likely to have moved across state lines in the last year compared to their civilian counterparts.³⁴ A typical military family moves every two to three years.³⁵ Research indicates that “the feature of military life that most negatively affects military wives’ careers is being asked to move often and far.”³⁶ For servicemembers, failure to comply with transfer orders may be chargeable as a federal offense.³⁷ Although families may decide not to move with the servicemembers, the resulting separations only compound the hardship on families already subject to lengthy separations due to training and overseas deployments and require the family to support the expenses of two separate households. According to a 2007 report by the RAND Corporation, “unlike civilian couples, who can make relocation decisions considering advantages and disadvantages for all family members, military couples must move according to the timing and placement of the servicemembers’ new assignment.”³⁸

Frequent geographic dislocations have a particularly negative effect on military spouse attorneys, for whom state licensing requirements create enormous barriers to the maintenance of a continuous professional career.³⁹ A 2013 survey of MSJDN members found that even though eighty percent hold an active law license, only thirty-four percent are working full time in a job requiring a law license. Forty-one percent have taken two or more bar examinations. Four out of five members reported that their

³² Nelson Liam, *et al.*, RAND CORPORATION, *Measuring Underemployment Among Military Spouses*. (2010) xvi., available at http://www.rand.org/content/dam/rand/pubs/monographs/2010/RAND_MG918.pdf (last visited Nov. 15, 2013).

³³ Margaret Harrell *et al.*, RAND CORPORATION, *Working Around the Military: Challenges to Military Spouse Employment and Education* (2004), at 40, available at http://www.rand.org/content/dam/rand/pubs/monographs/2004/RAND_MG196.pdf (last visited July 30, 2014) (a husband’s military service is “the major explanatory factor” for the disparity between military and civilian wife unemployment).

³⁴ DEPT. OF DEFENSE AND DEPT. OF THE TREASURY, *Supporting Our Military Families: Best Practices for Streamlining Occupational Licensing Across State Lines*, at 3, available at http://www.defense.gov/home/pdf/Occupational_Licensing_and_Military_Spouses_Report_vFINAL.PDF (last visited Nov 15, 2012).

³⁵ David R. Segal *et al.*, Population Reference Bureau and Hopkins Population Center, *The Effects of Military Deployment on Family Health*, 10, available at <http://www.prb.org/pdf11/segal-military-families-presentation.pdf> (last visited Nov. 15, 2013).

³⁶ Margaret Harrell *et al.*, RAND CORPORATION, *Working Around the Military: Challenges to Military Spouse Employment and Education*, at 40 (2004), available at http://www.rand.org/content/dam/rand/pubs/monographs/2004/RAND_MG196.pdf (“RAND 2004”) (last visited Nov. 15, 2013).

³⁷ UCMJ, 10 U.S.C. § 885.

³⁸ Nelson Liam *et al.*, RAND CORPORATION, “*Working Around the Military*” Revisited: *Spouse Employment in the 2000 Census Data*, at 4, available at http://www.rand.org/pubs/monographs/2007/RAND_MG566.pdf (last visited Nov. 15, 2013).

³⁹ The White House acknowledged the effects of these barriers in a wide variety of professions, noting that “[t]he lack of broad-based reciprocity among the states to recognize professional licenses or certificates held by military spouses creates a significant barrier to employment.” WHITE HOUSE, *Strengthening America’s Military Families: Meeting America’s Commitment*, at 16 (Jan. 2011), available at http://www.defense.gov/home/features/2011/0111_initiative/strengthening_our_military_january_2011.pdf (last visited May 3, 2013).

spouse's military service has negatively impacted their legal career, and half have lived apart from their spouse in order to maintain their legal career.⁴⁰

Anecdotal evidence of these difficulties abound.

- One such example is Carly Summers-O'Rourke, who, upon graduating from the University of Tennessee College of Law in December 2012, took the Tennessee bar, only to be told that her Army husband was likely to be stationed in Georgia. Right before she sat for the Georgia bar examination, she and her husband received new orders to Oklahoma. Several thousand dollars later, she had two state bar licenses and yet still was precluded from practicing in the jurisdiction in which she was located.
- Likewise, Natalie Teemer has made three moves in three years with her Army husband since being sworn in to practice in Tennessee. Now living in Kansas, she commutes over two hours each way to do document review in an attempt to maintain her legal career; this summer, she will add Kansas to her list of bar examinations she has taken.
- Eleanor Magers Vuono, former Army JAG and now a military spouse, has been licensed and practiced in three jurisdictions. After relocating to a fourth jurisdiction, the timing of the bar examination and the constraints of her husband's military assignment prevented her from being hired as an attorney or even serving in a *pro bono* capacity despite her practice experience.⁴¹
- Reda Hicks, an Army spouse, has been licensed in four jurisdictions in her seven years of practice, taken and passed bar examinations in two of those jurisdictions, and lived remotely from her Army pilot husband for the past four years due to licensing constraints.

If the states to which their spouses were transferred had military spouse admission rules in place, these qualified women would not have had to choose between living with their spouses and practicing law during the tenure of their husbands' service our country.

Because of geographic insecurity and licensing restrictions, many military spouses do not pursue the legal profession despite having attended law school and earned a *juris doctorate*. Likewise, military spouses attorneys who are currently practicing law forego traditional legal careers in order to support the servicemember, or, alternatively, the servicemember chooses to leave the military prematurely, causing the military to lose extensively trained, highly skilled, and talented servicemembers.

Recently, Congress specifically recognized and ameliorated some of the hardships endured by military spouses based solely on their marital status and their spouses' profession through the Military Spouses Residency Relief Act.⁴² The Military Spouses Residency Relief Act amends the Servicemembers Civil Relief Act to provide that a spouse shall neither lose nor acquire domicile or residence in a state when the spouse is present in the state solely to be with the servicemember in compliance with the servicemember's military orders. This change is part of the national initiative to reduce the burden on military families as they move from state to state.

⁴⁰ See MSJDN 2013 Member Survey Report of Findings, available at <http://www.msjdn.org/wp-content/uploads/2014/02/MSJDN-Survey-Report.pdf> (last visited May 27, 2014).

⁴¹ See Eleanor Magers Vuono, *Lower the Licensing Barriers So We May Serve*, UVA Lawyer, Spring 2012 available at <http://www.law.virginia.edu/html/alumni/uvalawyer/spr12/opinion.htm> (last visited Nov. 15, 2013).

⁴² Pub. L. No. 111-97, 123 Stat. 3007.

The White House, through its Joining Forces initiative, is leading a coordinated and comprehensive federal approach to supporting military families, outlined in the 2011 White House initiative, “Strengthening Our Military Families: Meeting America’s Commitment,” which states in relevant part:

*The lack of broad-based reciprocity among the states to recognize professional licenses or certificates held by military spouses creates a significant barrier to employment. Additionally, frequent moves result in military spouses incurring high costs for recertification and increased delays before they are able to work due to state licensing requirements in fields such as teaching and medical services.*⁴³

The White House also highlighted the efforts of MSJDN to address licensing issues in the legal profession.⁴⁴

The ability to maintain or transfer a professional license when moving from state to state has a direct impact on the ability of the military spouse to find employment. The Department of Defense, through its Military Community and Family Policy (“MCFP”) office, has addressed the licensing issue through state legislation for those career fields that are governed by state regulatory agencies,⁴⁵ including nearly all medical professions, real estate brokerage, social workers, and other professions. However, the practice of law is not governed by a state regulatory agency; therefore, the legislation for which the MCFP has advocated does not include the practice of law. The Proposed Rule identifies specific ways the legal profession itself can eliminate professional licensing barriers for military spouse attorneys.

Admission on motion for military spouse attorneys benefits both the legal community and the United States Uniformed Services. MSJDN’s Proposed Rule supports the essential national goal of military readiness because spouse employment opportunities have a significant impact on the ability of the U.S. military to recruit and retain qualified servicemembers.⁴⁶ This impact has particular salience in the context of military spouse attorneys, whose relatively high earnings potential creates an even higher incentive for servicemembers to leave the military in favor of their spouses’ careers.

The Current Tennessee Rule

Currently, an attorney who moves to Tennessee due to a servicemember spouse’s military orders and wishes to continue practicing law faces a difficult situation. Although the rules governing attorney licensure in the state do provide options for continuing practice, none of these options address the challenging realities faced by military spouse attorneys.

Admission upon motion without examination

Tennessee Supreme Court Rule Seven, Section Five, requires that an applicant for admission without examination must show that she has been “actively engaged in the practice of law” for five of the past seven years.⁴⁷ Military spouse attorneys have trouble meeting this requirement when the servicemember has been assigned overseas, is recently admitted, or has been unable to find legal work at a prior duty

⁴³ WHITE HOUSE, *supra* note 24, www.defense.gov/home/features/2011/0111_initiative/strengthening_our_military_january_2011.pdf.

⁴⁴ Posting of Brad Cooper to White House Blog, Military Spouse Attorneys Answer the Joining Forces Challenge, <http://www.whitehouse.gov/blog/2012/06/14/military-spouse-attorneys-answer-joining-forces-challenge> (Nov. 21, 2013, 11:22 EST).

⁴⁵ Lisa Daniel, *Military Spouses Get Help with Professional Licenses*, American Forces Press Service, June 13, 2011, available at www.defense.gov/news/newsarticle.aspx?id=64285. (last visited Nov. 15, 2013).

⁴⁶ See Harrell, *supra* note 22, at xvii.

⁴⁷ Tennessee Supreme Court Rules, Rule 7, Section 5.

station in a remote location. Additionally, under the current rule, the Tennessee Board of Law Examiners requires three letters of recommendation from attorneys or judges.⁴⁸ Unfortunately, frequent relocations mean that many military spouse attorneys will have substantial gaps in licensure and practice that make it difficult for them to accrue the required years of “active” practice or letters of recommendation from attorneys or judges.

Tennessee Supreme Court Rule Seven, Section Ten, allows an incoming military spouse attorney to register as In-House Counsel provided the attorney’s full-time employment is as “a lawyer by an organization, the business of which is lawful and consists of activities other than the practice of law or the provision of legal services.”⁴⁹ Unfortunately, once again, the geographic insecurity, geographic location of military installations, and employment barriers created by military life make it difficult for military spouse attorneys to obtain employment in these roles.

Admission by examination

Tennessee Supreme Court Rule Seven, Section 5, requires that attorneys not eligible for admission on motion take the bar examination and provide, at their own expense, a report by the National Conference of Bar Examiners.⁵⁰ Bar examinations are offered only twice per year and applications must be submitted three months prior to the date of examination in Tennessee.⁵¹ Military spouse attorneys often do not know where they will be stationed more than a few months in advance, so by the time the attorney learns of an impending move, the application deadline for the next examination likely will have passed. Even if the military spouse is able to meet the deadlines, the application process requires the military spouse attorney to purchase preparation materials, study and sit for a bar examination, wait months for the results, proceed through the swearing-in process, and only then seek employment as an attorney. Thus, even assuming substantial notice of a military reassignment, each relocation that requires the military spouse attorney to take a bar examination to practice will result in a minimum of six to ten months of unemployment for a military spouse attorney⁵² occurring, on average, every two to three years (each time the servicemember is reassigned). As a result, these periods of unemployment cascade into difficulties meeting the practice requirements imposed by most states as a condition of admission on motion.

In short, given the frequency of relocations, a military spouse attorney seeking a Tennessee license may spend thousands of dollars on the bar examination process⁵³ and receive a license to practice only to have a year or two left in the state with which to use that license. This not only minimizes the opportunity to seek paid practice experience in Tennessee, but it greatly lessens chance of practicing in the next jurisdiction to which the servicemember is reassigned because of state time-in-practice requirements and the necessity of paying and preparing for another bar examination and character and fitness review.

⁴⁸ See, e.g. Application for Admission to Practice Law in Tennessee Supplements – Comity, <http://www.state.tn.us/lawexaminers/docs/TN%20Supplement%20Comity%20Synergy.pdf> (last visited March 30, 2014).

⁴⁹ Tennessee Supreme Court Rules, Rule 7, Section 10.

⁵⁰ Tennessee Supreme Court Rules, Rule 7 Section 6.03(b).

⁵¹ See, e.g., The Tennessee Board of Law Examiners Bar Examination Schedule, <http://www.state.tn.us/lawexaminers/feeSched.htm>. (last visited June 5, 2014)

⁵² Assuming four to six months to apply and study for the examination, then two to four months to receive results and get sworn in.

⁵³ The exam itself costs \$450 for a first time Tennessee applicant, plus \$375 for the NCBE (not including the various fees required to gather the documentation necessary for the application, laptop fee, late fees if military orders are received past the deadline, etc.), see Tennessee Board of Law Examiners Fee Schedule, <http://www.state.tn.us/lawexaminers/docs/Fee%20Schedule%20restated%20and%20posted.pdf>, (last visited July 30, 2014), and exam preparation classes through BarBri cost an additional \$3,125, see BarBri Website, at <http://www.barbri.com> (last visited July 30, 2014).

Thus, because Tennessee offers no options addressing these challenges unique to the military lifestyle, a military spouse attorney must choose among four alternatives if her spouse is stationed in Tennessee, even if she is already admitted elsewhere: (1) spend thousands of dollars and delay employment for many months to sit for the Tennessee Bar Examination; (2) severely limit her job search to non-legal or in-house positions not requiring a Tennessee license; (3) abandon the practice of law (temporarily or, as often happens after multiple military relocations to states without accommodations, permanently); or (4) increase the already lengthy family separations by staying behind in a state where the attorney is licensed to practice, forcing the family to maintain the expenses of two households.

Tennessee Proposed Rule

The Proposed Rule seeks to accommodate military spouse attorneys while supporting their spouses' military service. It achieves this purpose by modifying the requirements of licensure for military spouse attorneys who can establish that their servicemember is on military orders in the State of Tennessee or at Fort Campbell, Kentucky. Under the Proposed Rule:

1. Qualified military spouse attorneys would be full members of the Tennessee bar and subject to the same requirements as other attorneys regarding ethics, continuing legal education, and licensing fees.
2. Military spouses would only qualify for admission if they
 - a. have been admitted by bar examination in at least one other jurisdiction,
 - b. hold a degree from an ABA-approved law school,
 - c. submit a passing score on the MPRE,
 - d. are members in good standing in all jurisdictions in which they have been admitted,
 - e. are subject to no pending disciplinary matters in any jurisdiction, and
 - f. possess the character and fitness requirements necessary to practice law in Tennessee.

Tennessee is a unique jurisdiction since there is a major military installation that straddles the Tennessee/Kentucky border. Since the Post Office for Fort Campbell is located on the Kentucky side, the official address for the post is in Kentucky, despite the fact that *over eighty percent of active duty Soldiers stationed at Fort Campbell, Kentucky, live in Clarksville, Tennessee.*⁵⁴ Many military spouse attorneys living in Tennessee could be deemed ineligible if the Proposed Rule did not include Fort Campbell as their servicemember spouses technically have orders for Kentucky, not Tennessee. Therefore, we have crafted a rule that specifically addresses the situation in which a military spouse lives in Tennessee while her servicemember has orders to Fort Campbell.

In addition to the obvious benefits for military families, the Proposed Rule allows the Tennessee legal community to benefit from the diversity of experience and skills offered by military spouse attorneys. These attorneys have a wide variety of legal backgrounds, but their experience as military spouses means that they possess an ability to adapt to rapidly changing circumstances and learn quickly in new environments—all qualities that Tennessee should embrace in its attorneys. In addition, military spouse attorneys are in an ideal position to act as ambassadors from Tennessee's legal community to its military community because they are enthusiastic about using their legal skills to help other military families.⁵⁵

⁵⁴ City of Clarksville: About Clarksville, available at <http://www.cityofclarksville.com/index.aspx?page=181> (last visited March 30, 2014).

⁵⁵ See MSJDN 2013 Member Survey Report of Findings, available at <http://www.msjdn.org/wp-content/uploads/2014/02/MSJDN-Survey-Report.pdf> (last visited May 27, 2014).

Conclusion

Difficulties with licensure requirements are hardly the only challenges that military spouse attorneys face in their attempts to maintain career continuity. Finding professional employment can be extremely difficult given the uncertainty surrounding the length of time the family will be stationed in a given state, the patchwork of prior positions, and gaps in employment. Military spouse attorneys face the additional challenge of finding themselves in new locales where they likely have no personal or professional contacts and must build their networks from scratch in very short period of time. Tennessee can and should ameliorate these obstacles to practice for qualified military spouse attorneys by enacting the Proposed Rule.

January 28, 2015

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Re: Proposed Rule Change for Licensing of
Military Spouse Attorneys

Dear Members of the Board of Law Examiners:

We, the undersigned 42 attorneys, are writing to you as members of the Tennessee Bar and as veterans of the armed forces. The families of Servicemembers often sacrifice as much, if not more, than their family members in uniform. Military families are required to move from state to state, often every two or three years. As you can imagine, this makes it very difficult for spouses who hold law degrees to practice their chosen profession. These spouses have a great deal to offer the bar and to our country. We urge you to adopt the proposed rule submitted by Ms. Josie Beets on behalf of the Military Spouse's JD Network.

Very truly yours,



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Ethics and Professionalism Committee

{01187328.1 }



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Re: The Lawyers' Association for Women, Marion Griffin Chapter Recommendation and Endorsement of Proposed Rule Change Regarding Licensing of Military Spouse Attorneys Pending Before the Tennessee Board of Law Examiners

Dear Members of the Tennessee Board of Law Examiners:

The Lawyers' Association for Women, Marion Griffin Chapter strongly recommends and endorses the proposed rule for Temporary Admission of a Military Spouse currently pending for consideration by the Board.

Military spouse attorneys face significant barriers and disadvantages when their servicemember spouse is assigned for duty in Tennessee. This proposed rule strikes a careful balance, providing a temporary admission procedure to enable military spouse attorneys to continue their careers with minimal disruption to their families while maintaining the high standards of the legal community within our state. LAW urges the Board to adopt and implement the proposed rule as expeditiously as possible.

Since our Chapter was first founded in 1981, our members have been committed to promoting and ensuring the efficient administration of justice and the constant improvement of the law, especially as it relates to women. We are mindful that the demands of military service today have changed and that many spouses have their own careers upon which the family depends.

Women make up 95 percent of military spouse attorneys and while 80 percent maintain an active law license, only 34 percent work full time in a job requiring a license.¹ Four out of five military spouse attorneys also report their spouse's military service has negatively impacted their legal career. Military spouse attorneys face a potential income loss of \$33,745 per year compared with their civilian attorney counterparts.² The inability to maintain a career due to changes in duty stations across state lines can place stress on the family, stress already magnified by frequent separations for duty and lengthy combat deployments. A spouse's ability to maintain a career can be a critical factor in a servicemember's determination as to whether to continue service in the military.

Adoption of the proposed rule is one way the Tennessee legal community can ease the stress faced by military families. Our legal community will become stronger by making this temporary accommodation, which has received support from the American Bar Association, the Conference of Chief Justices, the Federal Bar Association, and the U.S. Chamber of Commerce. In unanimously endorsing this rule, the Board of Directors of the Lawyers' Association for Women shows its support for military spouse attorneys and their families.

Sincerely,



Laura B. Baker
President

cc:

Justice.Cornelia.Clark@tncourts.gov
Honorable Cornelia A. Clark
Tennessee Supreme Court
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401 Seventh Avenue North, Suite 318
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¹ Military Spouse JD Network, *2013 Member Survey Report of Findings* (January 2014), available at <http://www.msjudn.org/wp-content/uploads/2014/02/MSJDN-Survey-Report.pdf>.

² Military Officers Association of America & Institute for Veterans and Military Families at Syracuse University, *Military Spouse Employment Report* (February 2014) available at <http://vets.syr.edu/research/research-highlights/milspouse-survey/>.



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Re: Memphis Bar Association Recommendation and
Endorsement of Proposed Rule Change Regarding
Licensing of Military Spouse Attorneys Pending Before
the Tennessee Board of Law Examiners

Dear Members of the Tennessee Board of Law Examiners:

On February 26, 2015 the Memphis Bar Association Board of Directors adopted a resolution recommending and endorsing the proposed rule for temporary admission of a military spouse currently pending for consideration by the Board. Enclosed is a copy of the approved resolution.

The MBA urges the Board to proceed with the favorable consideration of the proposed temporary admission rule as expeditiously as possible.

Tennessee Board of Law Examiners
March 4, 2015
Page 2

Thank you very much for considering the views of the leadership of our association.

Respectfully,

MEMPHIS BAR ASSOCIATION

A handwritten signature in black ink, appearing to read 'Tom Parker', with a long horizontal flourish extending to the right.

Thomas L. Parker, President

A handwritten signature in black ink, appearing to read 'David Harris', with a large loop at the beginning and a horizontal flourish at the end.

David J. Harris, Board Member

RESOLUTION IN SUPPORT OF PROPOSED RULE
CHANGE FOR LICENSING OF MILITARY SPOUSE ATTORNEYS

Be it resolved that the Memphis Bar Association Board of Directors hereby adopts this resolution in support of the proposed rule change for the temporary licensing of attorney spouses of military servicemembers currently pending before the Tennessee Board of Law Examiners:

The Memphis Bar Association recommends and endorses the proposed rule for the Temporary Admission of a Military Spouse currently pending for consideration by the Board of Law Examiners.

Military spouse attorneys face significant barriers and disadvantages when their servicemember is assigned for duty in Tennessee. This rule strikes a careful balance providing a temporary admission procedure to enable spouses to continue their careers with minimal disruption to their military families while maintaining the high standards of the legal community within our state. The MBA urges the Board to adopt and implement the proposed rule as expeditiously as possible.

Adoption of the proposed rule is one way the Tennessee legal community can ease the stress military families face. Our legal community will become stronger by making this temporary accommodation, which has received support from the American Bar Association, the Conference of Chief Justices, the Federal Bar Association, and the U.S. Chamber of Commerce. In adopting this rule, the Board will show its support for servicemembers, sworn to protect and defend the Constitution of our freedoms, and their families.

Adopted: February 26, 2015



Thomas L. Parker, President

RESOLUTION IN SUPPORT OF PROPOSED RULE
CHANGE FOR LICENSING OF MILITARY SPOUSE ATTORNEYS

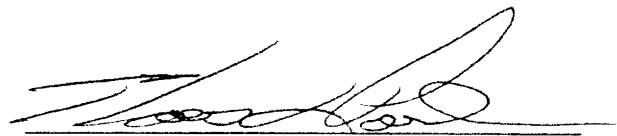
Be it resolved that the Memphis Bar Association Board of Directors hereby adopts this resolution in support of the proposed rule change for the temporary licensing of attorney spouses of military servicemembers currently pending before the Tennessee Board of Law Examiners:

The Memphis Bar Association recommends and endorses the proposed rule for the Temporary Admission of a Military Spouse currently pending for consideration by the Board of Law Examiners.

Military spouse attorneys face significant barriers and disadvantages when their servicemember is assigned for duty in Tennessee. This rule strikes a careful balance providing a temporary admission procedure to enable spouses to continue their careers with minimal disruption to their military families while maintaining the high standards of the legal community within our state. The MBA urges the Board to adopt and implement the proposed rule as expeditiously as possible.

Adoption of the proposed rule is one way the Tennessee legal community can ease the stress military families face. Our legal community will become stronger by making this temporary accommodation, which has received support from the American Bar Association, the Conference of Chief Justices, the Federal Bar Association, and the U.S. Chamber of Commerce. In adopting this rule, the Board will show its support for servicemembers, sworn to protect and defend the Constitution of our freedoms, and their families.

Adopted: February 26, 2015



Thomas L. Parker, President



Nashville Bar Association

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March 16, 2015

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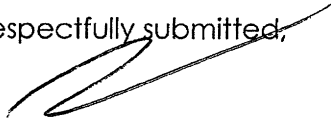
**RE: THE NASHVILLE BAR ASSOCIATION'S RECOMMENDATION AND
ENDORSEMENT OF A PROPOSED RULE CHANGE REGARDING
LICENSING OF MILITARY SPOUSE ATTORNEYS PENDING BEFORE THE
TENNESSEE BOARD OF LAW EXAMINERS**

Dear Members of the Tennessee Board of Law Examiners:

The National Bar Association supports a Rule that would allow military spouses not admitted in Tennessee to be admitted to practice on a temporary and provisional license, without commenting on any particular rule language at this time.

MEMBERS OF THE TENNESSEE BOARD OF LAW EXAMINERS
MARCH 16, 2015
PAGE 2

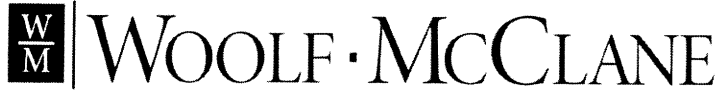
Respectfully submitted,



Edward D. Lanquist, Jr.
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EDL/jb

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March 31, 2015

VIA EMAIL

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Re: Knoxville Support for Attorney Spouses of Servicemembers

Dear Members of the Board of Law Examiners:

We, the undersigned attorneys, are writing to you as members of the Knoxville Bar Association and as veterans of the armed forces. The families of Servicemembers often sacrifice as much, if not more, than their family members in uniform. Military families are required to move from state to state, often every two or three years. As you can imagine, this makes it very difficult for spouses who hold law degrees to practice their chosen profession. These spouses have a great deal to offer the bar and to our country. We urge you to adopt the proposed rule submitted by Ms. Josie Beets on behalf of the Military Spouse's JD Network.

Sincerely,

A handwritten signature in black ink, appearing to read 'Michael J. King'.

Michael J. King, Captain, USAF
1992-1996

MJK:af

cc: Josie Beets (via email)
Meghan Morgan, Esq. (via email)

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4. James F. Blackstock
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6. Martha L. Boyd
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8. W. D. (David) Broemel
9. Hon. Joe B. Brown*
10. Robert N. Buchanan III
11. Jack Byrd
12. William L. Campbell Jr
13. Brett R. Carter
14. John P. Cauley
15. Prof. Donald (Don) Cochran
16. Erin Coleman
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18. C. Hayes Cooney
19. Kevin M. Doherty
20. James M. Doran Jr.
21. Hon. Frank F. Drowota*
22. Hon. Daniel B. Eisenstein*
23. Kenneth P. (Pete) Ezzell Jr.
24. Michael D. Galligan
25. John E. Gillmor
26. Frank Grace Jr.
27. Hon. Hamilton V. (Kip) Gayden*
28. James C. Gooch
29. Charles K. Grant
30. John A. Gupton III
31. James A. Haltom

32. Lawrence H. Hart
33. H. Wynne James
34. Chanelle A. Johnson
35. Victor S. (Torry) Johnson
36. Richard H. (Dick) Knight Jr.
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42. James E. Mackler
43. Joseph L. (Jack) May
44. Alan D. Mazer
45. Joe Napiltonia
46. Everett Scott Neely
47. Prof. Michael A. Newton
48. Hon. Seth W. Norman*
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50. Hon. George C Paine II*
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57. Bradford Telfeyan
58. Bob F. Thompson
59. Clark H. Tidwell
60. Robert D. (Bob) Tuke
61. Warren H. Wild Jr.
62. Hon. Thomas A. Wiseman*
63. Hon. Randall Wyatt*
64. Vincent P. Wyatt

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66. John A. Lucas
67. Fred Lewis
68. Nick H. McCall
69. Jeff Glaspie
70. Sam W. Rutherford
71. Jonathan D. Reed
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76. Dudley W. Taylor
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108. G. Turner Howard, III
109. Eddy R. Smith

* Indicates an active or retired state or federal judge.

EXHIBIT F

Name	Title	Firm	Address One	Address Two	City	State	Zip
Deborah Tate	Administrative Director	Administrative Office of the Courts	511 Union St	Suite 600	Nashville	TN	37219
Hon. Alberto Gonzales	Dean	Belmont University College of Law	1900 Belmont Blvd		Nashville	TN	37212
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Name	Title	Firm	Address One	Address Two	City	State	Zip
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Doug Blaze	Dean	UT College of Law	1505 W. Cumberland Ave, Rm 278		Knoxville	TN	37996
Chris Guthrie	Dean	Vanderbilt University School of Law	131 21st Ave. South, Room 108		Nashville	TN	37203