

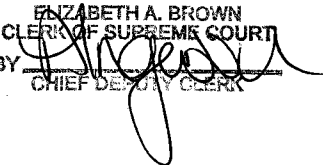
Via Email Only

October 24, 2018

FILED

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Elizabeth Brown
Clerk of the Supreme Court
Nevada Supreme Court
201 South Carson Street
Carson City, NV 89701
nvscclerk@nvcourts.nv.gov

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
CHIEF DEPUTY CLERK

Re: Rules Amendments

In re Amendments to S. Ct. Rule 207 (Board of CLE), ADKT. 0499

Dear Ms. Brown:

We write to express our comments on the changes proposed by the Nevada Board of Continuing Legal Education (CLE Board) in its *Renewed Request for Amendment to ADKT 0499* (Petition).

It is our understanding that CLE Board's impetus for the proposed changes is a decline in revenues of \$140,000 due to increased attorney compliance with CLE requirements. The decrease was expected and had planned to be filled by provider fees. However, those monies have not materialized due to exemptions granted to non-profit and not-for-profit CLE providers such as Legal Aid Center of Southern Nevada, Inc. (Legal Aid Center). In order to make up the difference, CLE Board proposes increasing the per credit fee charged to attorneys, and limiting the exemptions granted to CLE providers from payment of the application fee. We do not support either change.

We are supportive, however, of efforts to maximize the efficiency of CLE Board. We suggest that data-driven decision making be employed for any changes in CLE requirements and fees.

1. Legal Aid Center Supports CLE

Legal Aid Center's mission is to preserve access to justice, and to provide quality legal counsel, advice and representation for individuals who are unable to protect their rights because they cannot afford an attorney. We cannot advance our goal of providing quality legal counsel to this underserved population without the assistance of volunteer attorneys. In order to have a well of talent to draw from, we offer free CLE in the specialized and diverse areas in which we practice.

In our Children's Attorney Project, for example, we offer CLEs on topics like, "It Depends: Answers to Common Ethical Issues Facing Child Welfare Attorneys;" "Advocating for Children in Mental Health Proceedings;" and "Discipline, Behavior, and Bullying Issues in Special Education." These seminars are free to our staff attorneys, parents' attorneys, district attorneys, conflicts counsel, and pro bono

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attorneys. We do not require any participant to take on a pro bono case. It is more important for us that the information provided in these advanced topics are transmitted to the boots on the ground.

In 2017, Legal Aid Center offered 43 programs to attorneys free of charge. 16 of these classes were approved for 3 hours of credit; the remaining were less. We saw 744 attendees of which 138 accepted a pro bono case.

Year-to-date, we've offered 23 programs to attorneys free of charge. 9 classes were offered for 3 or more hours of credit; the remaining were less. 266 attendees participated in these seminars, and 65 took pro bono cases.

2. How the Plan Impacts Us

2.1. Increased Costs of 260%

We estimate a 260% increase in CLE costs per attorney for 2019 under the new model. While CLE Board requests that it maintain the annual attorney dues at \$40, it asks to increase the credit fee for unaccredited courses from a flat \$5 per hour fee to a scale based on credit hours. The fees increase ranges from \$15 - \$40. These fees are charged to the attorney if they seek credit for previously unapproved classes. Unfortunately, this will increase our costs because not all trainings for our staff can be found in Nevada leaving the attorney to pay the per credit fee in order to receive CLE credit.

The impact of the increased credit fee cannot be minimized. We rely on the work of out-of-state organizations like the National Association of Counsel for Children; the National Association of Consumer Advocates; and American Immigration Lawyers Association for quality, specialized legal education. These non-profit and not-for-profit organization provide valuable insight into how our attorneys can provide better representation to our clients and the public. After paying thousands of dollars to have our attorneys to take these courses we will be forced to expend additional costs to receive credit. Under our analysis, that cost would be more than doubled. We urge the Court to look at other alternatives to make up any shortfall in CLE Board revenue to meet its expenses.

2.2. We Would Unlikely Be Able to Offer CLE for Credit

Under the proposed plan, exemptions for providers from payment of the program application fee would be granted under Regulation 6 in two circumstances. First, if the proceeds of the course are donated to the Nevada Bar Foundation. Second, if there is no fee charged and the participants agree to take on a pro bono case or engage in another pro bono activity sponsored by a pro bono provider recognized by the Nevada Bar Foundation. The proposed exemptions will limit Legal Aid Center's ability to offer in-house trainings and other CLE to other attorneys.

First, Legal Aid Center does not charge a fee for its courses. We would therefore not qualify for an exemption based on the donation of proceeds to the

Nevada Bar Foundation.

Second, we offer trainings free of charge in many specialized areas of the law and often do not ask that participants take on a pro bono case. For example, in our Children's Attorney Project, we offer CLEs on pertinent topics to staff attorneys, parents' attorneys, and district attorneys for free. We do not require any participant to take on a pro bono case. This is often because either the attorneys who participate would be prohibited from taking on a pro bono case like governmental employees, or the attorney has already accepted a case in the past.

Third, it is our understanding that the Nevada Bar Foundation does not recognize pro bono providers. We would therefore not qualify for the exemption.

Limiting the exemptions to the two options proposed would mean that otherwise free courses would cost us around \$2,000. We therefore encourage the Court to maintain the present regulations that provide for an exemption for non-profit and federal, state and local government agencies that do not charge a fee for attending their programs.

3. Efforts We Support

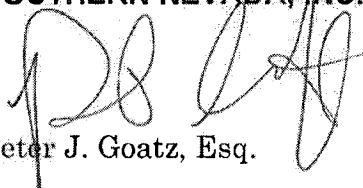
We support efforts to make data-driven decisions for CLE requirements and fees. We would support a requirement that exempted organization take on the responsibility for attendance input. It is our understanding that given the technology, this would be a minimal burden on our staff compared with the proposed increase in costs. It also aligns with the goal of CLE Board to reduce its budget by cutting its staff.

Regarding the proposal to alter the deadlines for payment of fees and compliance, we support aligning deadlines to coincide with the State Bar of Nevada's fee deadlines. It is administratively easier to have all payments due at the same time.

I will attend the public hearing from our office to provide oral comments and to answer any questions from the justices.

Very Truly Yours,

**LEGAL AID CENTER OF
SOUTHERN NEVADA, INC.**


Peter J. Goatz, Esq.