

State of Nevada
Board of Continuing Legal Education

457 Court St., 2nd Floor
Reno, NV 89501
(775) 329-4443

LAURA BOGDEN
EXECUTIVE DIRECTOR

December 30, 2019

Elizabeth Brown
Clerk of the Court
Supreme Court of Nevada
201 South Carson Street, Suite 201
Carson City, Nevada 89701-4702

FILED

JAN 02 2020

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
CHIEF DEPUTY CLERK

Re: Written Comment Regarding Petition Filed by the Access to Justice Commission Regarding Continuing Legal Education Credit for Attorneys Performing Certain Pro Bono Work - (ADKT 0551)

Dear Ms. Brown:

Pursuant to the Court's December 5, 2019 Order regarding the above-referenced matter, on behalf and at the direction of the Nevada Board of Continuing Legal Education ("CLE Board"), I submit the following comments regarding the Access to Justice Commission's petition seeking continuing legal education credit for attorneys who have performed certain pro bono work, docketed as ADKT 0551 by the Court ("Petition"). I plan to be present at the Carson City Courtroom for the hearing of this matter in the event the Court has questions for the CLE Board in connection with the Petition.

If the Court is inclined to grant the Petition, the Board offers the following comments:

- The ratio of one hour of CLE credit for each full four hours of pro bono work with an annual cap of four hours is appropriate.
- For purposes of administrative simplicity, and to lessen the burden on CLE Board Staff, as well as the staff of pro bono providers, only general credits, not ethics or substance abuse credits, should be awarded. The Board notes that none of the states listed in Exhibit B attached to the Petition award ethics credit for pro bono work.
- If they have not already done so, the NRPC 6.5/SCR 216(1) entities should obtain Accredited Provider status from the Board. As the Court may recall, such non-profit entities are exempt from all Board fees, excepting late fees, which are discretionary in any event.



FRANK C. FLAHERTY - CHAIR

RICHARD I. BREITZER • JENNY D. HUBACH • MEGAN C. HOFFMAN • KATHLEEN M. PAUSTIAN • ROBERTO PUENTES, JR. • LYNNE K. SIMONS

FAX (775) 329-4291
E-MAIL: nevadacleboard@sbcglobal.net
WEBSITE: nvcleboard.org

20-00120

- Upon conclusion of the pro bono case or completion of sixteen hours of work on the pro bono case, the attorney should notify the NRPC 6.5 entity that the attorney is seeking CLE credit. The NRPC 6.5 entity will then report credit to the Board on behalf of the attorney utilizing the established process for Accredited Providers to report courses (on-line portal).
- SCR 210 as shown on Exhibit A attached to the Petition does not reflect changes to that rule effective as of this Court's December 21, 2018 Order in ADKT 0499. The CLE Board respectfully submits herewith its own proposed amendment to SCR 210 utilizing that rule as of December 21, 2018 as the "base document." Any substantive provision of these comments not shown in the proposed amendment would be effected by way of CLE Board Regulations or procedures.

The CLE Board thanks the Court for its attention and careful consideration in this matter, and it thanks the Access to Justice Commission for its hard work in this matter.

Sincerely,



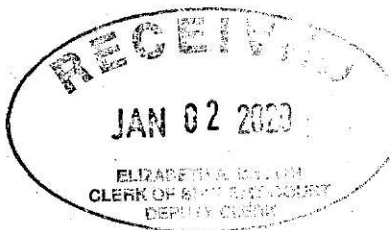
Francis C. Flaherty
Chair

Enclosure

cc (w/encl.): Laura Bogden
Kim Farmer
Brad Lewis

Nevada Board of Continuing Legal Education

Proposed Exhibit A for ADKT 0551



Rule 210. Minimum continuing legal education requirements; credit for pro bono cases. To meet the annual minimum continuing legal education requirements imposed by these rules, each attorney subject to these rules must timely: submit required fees, complete the requisite number of credit hours, and provide such other information as the board may require.

1. **Annual fee.** The amount of the annual fee will be determined by the board, but will not exceed \$40. The annual fee must be paid on or before March 1 of the year for which the fee is required to be paid.

2. **Credit hours.**

(a) Subject to the carry forward provisions of subparagraph (b), a minimum of thirteen (13) hours of accredited educational activity, as defined by the regulations adopted by the board, must be completed by December 31 of each year. Of the thirteen (13) hours, at least two (2) shall be exclusively in the area of ethics and professional conduct and one (1) shall be exclusively in the area of substance abuse, addictive disorders and/or mental health issues that impair professional competence. Attorneys entitled to an exemption pursuant to Rule 214(1)(a) must complete the requirement within the same calendar year in which they are first subject to continuing legal education requirements.

(b) Any attorney subject to these rules who completes more than thirteen (13) hours of accredited educational activity in any calendar year may carry forward up to twenty (20) hours of excess credit and apply the same to the attorney's general educational requirement for the next two (2) calendar years. Likewise, any attorney subject to these rules who completes more than two (2) hours of ethics and professional conduct credit in any calendar year may carry forward up to four (4) hours of excess credit and apply the same to the attorney's ethics and professional conduct educational requirement for the

next two (2) calendar years. Any attorney subject to these rules who completes more than one (1) hour in the area of substance abuse, addictive disorders and/or mental health issues that impair professional competence may carry forward up to two (2) hours of excess credit and apply the same to the attorney's substance abuse, addictive disorders and/or mental health issues requirement for the next two (2) calendar years.

3. **Credit for pro bono cases.** An attorney subject to these rules may earn continuing legal education credit by providing uncompensated pro bono civil legal representation or service through a Nevada entity described in NRPC 6.5(a) that is a recipient of IOLTA funds pursuant to Rule 216(1). An attorney may obtain one (1) hour of general credit for each four (4) full hours of uncompensated legal services performed for a maximum of four (4) hours of continuing legal education credit per year. To obtain credit, the attorney must report completion of uncompensated pro bono civil legal representation or service to the entity that provided the case or service opportunity to the attorney, and the entity that provided the case or service opportunity to the attorney shall then submit the appropriate number of continuing legal education credits to the board on behalf of the attorney. The board shall not assess fees for continuing legal education credits awarded pursuant to this Rule.

4. **Affirmation of attendance.** No later than December 31, an attorney must submit to the board an affirmation of attendance listing all courses of continuing legal education attended during the year and the number of credit hours the attorney is claiming for each course. The affirmation of attendance constitutes an attorney's representation under penalty of perjury that the attorney attended and participated in the listed course of continuing

legal education for the hours represented on the affirmation. The provisions of Rule 212 are applicable to the affirmation of attendance.

[4.]5. CLE credit compliance. The board shall establish regulations providing for review of its determination of the CLE credits earned by an attorney and for resolving disputes. The regulations shall provide for the random audit of attorneys' affirmations of attendance to verify attorney compliance with CLE requirements.

State of Nevada
Board of Continuing Legal Education

457 Court St., 2nd Floor
Reno, NV 89501
(775) 329-4443

LAURA BOGDEN
EXECUTIVE DIRECTOR

December 30, 2019

FILED

JAN 02 2019

Elizabeth Brown
Clerk of the Court
Supreme Court of Nevada
201 South Carson Street, Suite 201
Carson City, Nevada 89701-4702

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
CHIEF DEPUTY CLERK

Re: Written Comment Regarding Petition Filed by the Access to Justice Commission Regarding Continuing Legal Education Credit for Attorneys Performing Certain Pro Bono Work - (ADKT 0551)

Dear Ms. Brown:

Pursuant to the Court's December 5, 2019 Order regarding the above-referenced matter, on behalf and at the direction of the Nevada Board of Continuing Legal Education ("CLE Board"), I submit the following comments regarding the Access to Justice Commission's petition seeking continuing legal education credit for attorneys who have performed certain pro bono work, docketed as ADKT 0551 by the Court ("Petition"). I plan to be present at the Carson City Courtroom for the hearing of this matter in the event the Court has questions for the CLE Board in connection with the Petition.

If the Court is inclined to grant the Petition, the Board offers the following comments:

- The ratio of one hour of CLE credit for each full four hours of pro bono work with an annual cap of four hours is appropriate.
- For purposes of administrative simplicity, and to lessen the burden on CLE Board Staff, as well as the staff of pro bono providers, only general credits, not ethics or substance abuse credits, should be awarded. The Board notes that none of the states listed in Exhibit B attached to the Petition award ethics credit for pro bono work.
- If they have not already done so, the NRPC 6.5/SCR 216(1) entities should obtain Accredited Provider status from the Board. As the Court may recall, such non-profit entities are exempt from all Board fees, excepting late fees, which are discretionary in any event.



FRANK C. FLAHERTY - CHAIR

RICHARD I. BREITZER • JENNY D. HUBACH • MEGAN C. HOFFMAN • KATHLEEN M. PAUSTIAN • ROBERTO PUENTES, JR. • LYNNE K. SIMONS

FAX (775) 329-4291
E-MAIL: nevadacleboard@sbcglobal.net
WEBSITE: nvcleboard.org

20-00120

- Upon conclusion of the pro bono case or completion of sixteen hours of work on the pro bono case, the attorney should notify the NRPC 6.5 entity that the attorney is seeking CLE credit. The NRPC 6.5 entity will then report credit to the Board on behalf of the attorney utilizing the established process for Accredited Providers to report courses (on-line portal).
- SCR 210 as shown on Exhibit A attached to the Petition does not reflect changes to that rule effective as of this Court's December 21, 2018 Order in ADKT 0499. The CLE Board respectfully submits herewith its own proposed amendment to SCR 210 utilizing that rule as of December 21, 2018 as the "base document." Any substantive provision of these comments not shown in the proposed amendment would be effected by way of CLE Board Regulations or procedures.

The CLE Board thanks the Court for its attention and careful consideration in this matter, and it thanks the Access to Justice Commission for its hard work in this matter.

Sincerely,



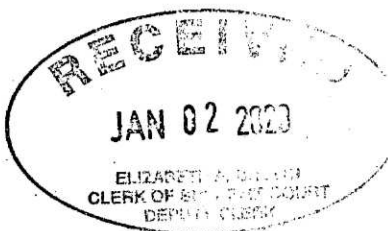
Francis C. Flaherty
Chair

Enclosure

cc (w/encl.): Laura Bogden
Kim Farmer
Brad Lewis

Nevada Board of Continuing Legal Education

Proposed Exhibit A for ADKT 0551



Rule 210. Minimum continuing legal education requirements; credit for pro bono cases. To meet the annual minimum continuing legal education requirements imposed by these rules, each attorney subject to these rules must timely: submit required fees, complete the requisite number of credit hours, and provide such other information as the board may require.

1. **Annual fee.** The amount of the annual fee will be determined by the board, but will not exceed \$40. The annual fee must be paid on or before March 1 of the year for which the fee is required to be paid.

2. **Credit hours.**

(a) Subject to the carry forward provisions of subparagraph (b), a minimum of thirteen (13) hours of accredited educational activity, as defined by the regulations adopted by the board, must be completed by December 31 of each year. Of the thirteen (13) hours, at least two (2) shall be exclusively in the area of ethics and professional conduct and one (1) shall be exclusively in the area of substance abuse, addictive disorders and/or mental health issues that impair professional competence. Attorneys entitled to an exemption pursuant to Rule 214(1)(a) must complete the requirement within the same calendar year in which they are first subject to continuing legal education requirements.

(b) Any attorney subject to these rules who completes more than thirteen (13) hours of accredited educational activity in any calendar year may carry forward up to twenty (20) hours of excess credit and apply the same to the attorney's general educational requirement for the next two (2) calendar years. Likewise, any attorney subject to these rules who completes more than two (2) hours of ethics and professional conduct credit in any calendar year may carry forward up to four (4) hours of excess credit and apply the same to the attorney's ethics and professional conduct educational requirement for the

next two (2) calendar years. Any attorney subject to these rules who completes more than one (1) hour in the area of substance abuse, addictive disorders and/or mental health issues that impair professional competence may carry forward up to two (2) hours of excess credit and apply the same to the attorney's substance abuse, addictive disorders and/or mental health issues requirement for the next two (2) calendar years.

3. **Credit for pro bono cases.** An attorney subject to these rules may earn continuing legal education credit by providing uncompensated pro bono civil legal representation or service through a Nevada entity described in NRPC 6.5(a) that is a recipient of IOLTA funds pursuant to Rule 216(1). An attorney may obtain one (1) hour of general credit for each four (4) full hours of uncompensated legal services performed for a maximum of four (4) hours of continuing legal education credit per year. To obtain credit, the attorney must report completion of uncompensated pro bono civil legal representation or service to the entity that provided the case or service opportunity to the attorney, and the entity that provided the case or service opportunity to the attorney shall then submit the appropriate number of continuing legal education credits to the board on behalf of the attorney. The board shall not assess fees for continuing legal education credits awarded pursuant to this Rule.

4. **Affirmation of attendance.** No later than December 31, an attorney must submit to the board an affirmation of attendance listing all courses of continuing legal education attended during the year and the number of credit hours the attorney is claiming for each course. The affirmation of attendance constitutes an attorney's representation under penalty of perjury that the attorney attended and participated in the listed course of continuing

legal education for the hours represented on the affirmation. The provisions of Rule 212 are applicable to the affirmation of attendance.

[4.]5. CLE credit compliance. The board shall establish regulations providing for review of its determination of the CLE credits earned by an attorney and for resolving disputes. The regulations shall provide for the random audit of attorneys' affirmations of attendance to verify attorney compliance with CLE requirements.