

State of Nevada
Board of Continuing Legal Education

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(775) 329-4443

LAURA BOGDEN
EXECUTIVE DIRECTOR

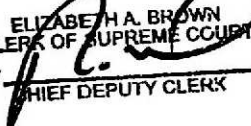
February 23, 2021

Via email to nvscclerk@nvcourts.nv.gov

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

FILED

FEB 23 2021

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

Re Written Comment Regarding Petition Filed by the Supreme Court Executive Committee
Regarding Administration of Board of Continuing Legal Education - (ADKT 0577)

Dear Ms. Brown:

Pursuant to the Court's February 11, 2021 Order Scheduling Public Hearing regarding the above-referenced matter, on behalf and at the direction of the Nevada Board of Continuing Legal Education ("CLE Board" or "Board"), I submit the following comments regarding the Executive Committee's petition seeking to amend the Supreme Court Rules governing the administration of the Board of Continuing Legal Education, docketed as ADKT 0577 by the Court ("Petition"). I plan to participate at the hearing of this matter. The CLE Board supports the Petition, and if the Court approves the Petition, it is committed to working with the State Bar to ensure a smooth transition, however, the Board does have some concerns it wants to share with the Court.

The CLE Board staff currently provides a high level of customer service to the membership of the State Bar of Nevada, and it is the Board's goal that this high level of service will continue if the administrative functions of the Board are assumed by State Bar staff. The CLE Board believes that in its current configuration as a stand-alone entity, all of the currently staffed positions are necessary to provide this high level of service to the membership.

As the Court is aware, the CLE Board and its staff have worked under several different business models over the past few years, in an attempt to find a business model that shifts part of the burden for the expense of the Board's operations from State Bar members to the providers of continuing legal education, while not financially impacting the CLE programs of governmental attorneys, pro bono legal service providers, the State Bar and other non-profits. CLE Board staff is still in the process of adjusting to the latest business model, and the ability attorneys now have to add courses to their affirmations of attendance has required an unexpected amount of manual data input by Board staff. The challenges of the transition to the latest business model were compounded by the resumption of a

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FEB 23 2021
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21-05359

continuing legal education requirement for active attorneys who have attained seventy years of age, and the adjustment process those attorneys are experiencing. Thus, current CLE Board staff have yet to settle in to the current operating environment created by the latest business model and Supreme Court Rule changes.

With regard to the current CLE Board staff, it is a dedicated group of employees who work very hard under the leadership of Laura Bogden, who always leads them by example. Laura has been with the Board for nearly 27 years, and the other employees of the Board have served between 5 and 10 years. The CLE Board understands that the transition to an administrative support model similar to that provided to the Board of Bar Examiners and the Nevada Bar Foundation is likely to occur, but it requests that the Court and the State Bar remain mindful of the service of current Board staff. In that regard, the Board recently discovered that many years ago, apparently as a cost-savings measure, the Board opted out of making unemployment contributions to the Employment Security Division, as permitted by NRS 612.553. The Board is currently evaluating whether it should opt back into such contributions or if it makes better sense financially to reserve sufficient funds to reimburse ESD, as set forth in NRS 612.553, in the unfortunate event that one or more members of the current CLE Board staff are laid off and cannot find alternative employment. It is possible that the Board will identify additional issues, staff and otherwise, as we progress to a model where staff support functions are performed by State Bar employees, but as alluded to at the outset, the CLE Board is committed to making any transition as seamless as possible.

To the CLE Board's knowledge, the staffing model that will be utilized by the State Bar of Nevada to provide administrative support for the Board's operations is yet to be determined. The CLE Board is mindful that its first obligation is to the membership of the State Bar; however, if and to the extent the provision of administrative support to the CLE Board results in the creation of new positions or job opportunities at the State Bar of Nevada, the Board requests that any current CLE Board employees who wish to apply be given full consideration. It cannot be gainsaid that they are qualified to support the work of the CLE Board.

A final point for the Court's consideration is the CLE Board's position regarding the Executive Committee's proposal to amend SCR 208(5). Per that proposal, all changes to the Board's Regulations would require prior Court approval. The Board believes that this impairs the Board's ability to be nimble and adaptive, and it would unduly burden the Court with additional administrative functions. Recently, at a single meeting, the Board was able to amend one of its Regulations and pave the way for approval of continuing legal education credit for judges and attorneys providing instruction to paralegals. That same amended Regulation also enabled the Board to approve continuing legal education credit for attorneys who serve as mock trial coaches and judges.

If the Executive Committee's concern is over-reach, perhaps this alternative might work: "To adopt, publish and enforce regulations enforce regulations within the limits of and consistent with these powers and duties." If the concern is that CLE Board will transition to another business model without the Court's approval, then perhaps

this alternative might work: “To adopt, publish and enforce regulations within the limits of and consistent with these powers and duties; provided, any significant alteration of the board’s business model is subject to prior court approval.”

The CLE Board thanks the Court for its attention and careful consideration in this matter, and it thanks the Executive Committee for its hard work in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Francis C. Flaherty". The signature is fluid and cursive, with a large, sweeping flourish at the end.

Francis C. Flaherty
Chair

cc: Laura Bogden
Kim Farmer