

IN THE SUPREME COURT OF THE VIRGIN ISLANDS

IN RE: ORDER ADOPTING) MANDATORY CONTINUING) LEGAL EDUCATION RULES) FOR THE VIRGIN ISLANDS BAR) _____)) PROMULGATION ORDER) NO. 07-00 <u>4</u>))
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ORDER

Pursuant to the provisions of Section 21(c) of the Revised Organic Act of 1954, as amended, (48 U.S.C. § 1611(c)) and 4 V.I. Code Ann. §§ 32(e) and 34, regarding the Rules governing admission of persons to the practice of law in the Virgin Islands, it is hereby

ORDERED that a new Supreme Court of the Virgin Islands Rule to be titled “Rule 208. Mandatory Continuing Legal Education” is hereby adopted which shall read as follows:

Rule 208. MANDATORY CONTINUING LEGAL EDUCATION

Continuing professional education of lawyers serves to improve the administration of justice and benefit the public interest. Regular participation in Continuing Legal Education programs will enhance the professional skills of practicing lawyers, afford them periodic opportunities for professional self-evaluation, and improve the quality of legal services rendered to the public. All active members of the United States Virgin Islands Bar shall participate in the requisite number of hours of continuing legal education, as set forth in this Rule, of further legal study throughout the period of their active practice of law, and failure to do so shall result in their suspension from membership in the Virgin Islands Bar.

(a) Appointment of the Virgin Islands Bar Association for the Administration of this Rule.

(1) The Supreme Court of the United States Virgin Islands hereby appoints the Virgin Islands Bar Association to administer these Rules. The Virgin Islands Bar Association shall create a Continuing Legal Education and Admissions Committee which shall be charged with the responsibility for implementation and administration of these rules

(2) The Virgin Islands Bar Association Committee Continuing Legal Education and Admissions shall have the following duties:

(A) Accept the certification forms to be filed annually by each active member of the Virgin Islands' Bar.

(B) Conduct a compliance audit during the month following the end of each reporting period.

(C) Review and approve Continuing Legal Education courses and activities.

(3) Report at least annually to the Supreme Court of Virgin Islands and quarterly to the Board of Governors of the V. I. Bar Association, on the operation, compliance and effectiveness of these Rules.

(b) Continuing Legal Education (CLE) Requirement.

(1) **Annual Requirement.** Every active member of the United States Virgin Islands Bar shall complete and certify attendance at a minimum of twelve (12) hours per year of approved Continuing Legal Education ("CLE") courses of which at least two (2) hours shall be in the area of legal ethics or professionalism. Each member shall complete the required CLE courses during the period of January 1 through December 31 of the same year. An "active member" is defined as a person who has active status in the Virgin Islands Bar Association. The annual credit requirement for lawyers who are active members for only a portion of the year shall be prorated at a rate of one (1) credit per month he or she claims active status, or any portion of a month thereof.

(2) **Carry-Over.** In an effort to provide flexibility in fulfilling the annual requirement, a one year carry-over of credit hours is permitted, so that accrued credit hours in excess of one year's requirement may be carried forward from one year to meet the requirement for the next year. A member may carry forward a maximum of six (6) credit hours, two of which, if earned in legal ethics or professionalism, may be counted toward the two (2) hours required in legal ethics or professionalism. Hours in excess of the minimum requirements defined in this Rule may not be carried forward for credit beyond the one year provided for in this Rule.

(3) **Prior Attendance.** Credit will be given for CLE hours accumulated within the year prior to admission to the Virgin Islands Bar.

(4) **Approved Courses and Activities.** The CLE requirement may be met either by attending courses or completing any other continuing legal education activity automatically approved for credit as provided in this Rule. Self-study, including the use of approved video or audio tapes, computer based resources, or participation in legal educational activities involving correspondence technology, in-house law firm continuing legal education efforts, teaching, and participation in a committee of the Virgin Islands Bar

Association or the Supreme Court of the United States Virgin Islands may be considered for credit when they meet the conditions set forth in this Rule. Credit shall not be given for activities not specifically enumerated in Section (g) of this Rule.

(c) Reporting CLE Credit.

(1) **Reporting Requirement.** Unless exempt as provided in this Rule, each active member shall submit to the Virgin Islands Bar Association, on or before January 31 of each year, a Certification of Attendance certifying that the member has attended mandatory Continuing Legal Education course(s) for the minimum number of hours required during the previous year ending December 31. No member may submit a Certification of Attendance after January 31 without approval of the Supreme of the United States Virgin Islands upon written request by the member.

(2) **Approved Forms.** A member may submit a Certification of Attendance form provided to the attendees at the CLE course (s) or, in the alternative, the form entitled *Attorney Application for CLE Credit/ Certification of Attendance* attached as Appendix 1 to this Rule.

(3) **Responsibility of Members.** Every active member shall be responsible for ascertaining whether or not the particular course satisfies the requirements of this Rule.

(d) Exemptions.

(1) **New Members.** A newly admitted member shall not be exempt from filing a certification for the reporting period in which he or she is first admitted. A newly admitted member is a person who has never previously been a member of the Virgin Islands Bar Association, or any other bar association for less than a year .]

(2) **Waivers.** A member who has been granted a waiver from compliance with the requirements of this Rule shall be exempted from filing a certification for the period for which the waiver is granted.

(A) A member seeking a waiver from the requirements for a reporting year must submit a written petition, together with any appropriate or required material or documentation (e.g. doctors' letter, medical records), to the Supreme Court of the United States Virgin Islands.

(B) A member should, whenever practicable, file his or her petition prior to the January 31 reporting deadline for the year the member seeks a waiver. Failure to file a petition in a timely manner may be considered by the Supreme Court in determining whether to grant a waiver.

(C) A waiver shall not be granted unless good cause is shown.

(D) The filing of any petition for waiver will toll the running of any

time limit set forth in this Rule up to, but not to exceed, thirty (30) days.

(3) **Extensions.** A member who has been granted an extension from compliance with the requirements of this Rule shall be exempted from filing a certification for the period for which the extension is granted.

(A) A member seeking an extension from the requirements for a reporting year must submit a written petition, together with any appropriate or required material or documentation (e.g. doctors' letter, medical records), to the Supreme Court of the United States Virgin Islands.

(B) A member should, whenever practicable, file his or her petition prior to the January 31 reporting deadline for the year the member seeks an extension. Failure to file a petition in a timely manner may be considered by the Supreme Court in determining whether to grant an extension.

(C) An extension shall not be granted unless good cause is shown.

(D) The filing of any petition for extension will toll the running of any time limit set forth in this Rule up to, but not to exceed, thirty (30) days.

(e) **Sanctions.**

(1) **Self-Reporting.** This Rule establishes a self-reporting system.

(2) **Annual Auditing.** During the month following the annual reporting deadline, the Virgin Islands Bar Association shall conduct a random audit of at least 15% of the active members to determine compliance with this Rule.

(3) **Notice of Delinquency.** After completion of the random audit, the Virgin Islands Bar Association shall send a Notice of Delinquency to each member found to have violated this Rule for any prior year.

(4) **Cure.** Within ninety (90) days following the receipt of the Notice of Delinquency, the member shall submit a Certification of Attendance, certifying that he or she has taken course hours necessary to meet the annual requirements of the Rule for the relevant year, along with a payment of a delinquency fee of \$50.00.

(5) **Failure to Cure.** If the member fails to submit the requisite Certification of Attendance sufficient to permit retroactive compliance with the Rule, the Virgin Islands Bar Association shall file a Notice of Non-Compliance with the Supreme Court of the United States Virgin Islands.

(6) **Automatic Suspension.** Failure to take steps to certify compliance with this Rule within ninety (90) days of receiving the Notice of Delinquency shall result in automatic suspension by the Supreme Court of the United States Virgin Islands.

(7) **Reinstatement.** In order to be reinstated, a member suspended for

violating this Rule shall file a petition for reinstatement with the Supreme Court of the United States Virgin Islands along with a reinstatement fee of \$200.00. The petition for reinstatement shall include a Certification of Attendance certifying that the suspended attorney has completed the course hours necessary to meet the annual requirements of this Rule for the relevant year.

(8) **Continuing Responsibility.** A suspension for violating this Rule shall not relieve the delinquent member of his annual responsibility to attend CLE programs or to pay his dues to the Virgin Islands Bar Association.

(9) **Representations by Members.** A member who makes a materially false statement in any document filed with the Virgin Islands Bar Association or the Supreme Court of the United States Virgin Islands shall be subject to appropriate disciplinary action.

(f) **Approved Educational Activities.**

(1) **Courses automatically approved.** The following CLE courses will be automatically approved for credit.

(A) Live CLE programs offered by the federal or local judiciary in the United States Virgin Islands, or by the Virgin Islands Bar Association. A *live* course is one where there is an instructor in the room with the participants.

(B) Self-study courses listed for automatic approval by the Virgin Islands Bar Association. (See Section 7(c) of this Rule, below).

(C) Courses or activities approved by the highest court of another jurisdiction or its designee, the American Bar Association, the National Bar Association, the American Law Institute or a state, the District of Columbia or territorial bar association.

(D) Courses or activities offered by a provider accredited by the official CLE committee of another jurisdiction or a national CLE accrediting body.

(2) **In-office CLE.** Courses offered by law firms, either individually or with other law firms, corporate legal departments, government attorneys, or similar entities, primarily for the education of their members may be approved for credit. Members who seek credit for in-office courses shall submit, with the required certification of attendance form, the program schedule or agenda and course syllabus or statement describing the subject matter. If the program does not cover a recognized legal topic, the member must attach a statement of how the course relates to his or her practice.

(3) **Self Study.** In addition to formal courses conducted in a class or seminar setting, approved self-study courses involving the use of video or audio tapes, computer resources (e.g. CD-ROM and internet), or correspondence courses (e.g. satellite and teleconference) may be used to

satisfy the credit requirements of this Rule. Members who seek credit for self-study courses shall submit, with the required certification of attendance form, the program schedule or agenda and course syllabus or statement describing the subject matter. If the program does not cover a recognized legal topic, the member must attach a statement of how the course relates to his or her practice. The Virgin Islands Bar Association shall make available to the members of the Association a list of self-study courses that will be automatically approved for credit.

(4) **Teaching or Lecturing.** Members who teach legal courses or deliver lectures on law, whether to other attorneys or to members of the general public may be given credit for the time spent in preparation and time spent teaching or lecturing. A member seeking credit for teaching or lecturing must obtain prior approval from the Virgin Islands Bar Association. Members who seek credit for teaching or lecturing shall submit, with the required certification of attendance form, the course syllabus, lecture outline or statement describing the subject matter. If the program does not cover a recognized legal topic, the member must attach a statement of how the course relates to his or her practice. Once credit has been given for teaching a course or delivering a lecture, no further credit shall be given for a subsequent delivery of the same material to a different audience.

(5) **Service on the Virgin Islands Bar Association Committees or Supreme Court of the United States Virgin Islands Committees, or in the Annual Moot Court Competition.** Members who are officers of the Virgin Islands Bar Association or sit on and actively participate in a committee of the Virgin Islands Bar Association or federal or local Courts of the United States Virgin Islands may be given credit for such participation. Members who seek credit for such participation shall submit, with the required certification of attendance form, a statement describing the officer's or committee's tasks, the scope of the member's participation and the number of hours actually expended attending meetings or working on assigned tasks. No more than two credit hours attributed to participation as an officer or a committee member may be awarded for each committee activity to satisfy the annual CLE requirement. Participants in the Moot Court competition shall be awarded one (1) credit hour for every six (6) 50-minute hours (300 minutes) of eligible service in the Moot Court competition. A maximum of four (4) CLE credit hours may be earned during any one reporting cycle for any of the above eligible activities.

(g) Standards for Approval of Courses.

(1) **General Standards.** To be approved for credit, the CLE course or activity must satisfy the following:

(A) The activity must have significant intellectual or practical content with the primary objective of increasing the participant's professional competence as a lawyer;

(B) The activity must deal primarily with substantive legal issues, legal skills, practice issues, or legal ethics and professional responsibility.

(2) **Legal Ethics or Professionalism Standards.** In order to satisfy the legal ethics or professionalism credit requirement, the course or activity shall be devoted to the study of judicial or legal ethics and professional responsibility or professionalism, and shall include discussion of applicable judicial conduct codes, disciplinary rules, or statements of professionalism.

(3) **The following activities shall not be accredited:**

(A) Activities that would be characterized as dealing primarily with personal self-improvement unrelated to professional competence as a lawyer;

(B) Activities designed primarily to sell services or equipment;

(C) Repeat live, video, audio, or CD-ROM CLE courses for which the member has already obtained CLE credit in the same reporting year.

4) Standards for Approval of Program and Sponsors.

(A). An Approved CLE program or activity must be offered by a sponsor having substantial, recent, experience in offering continuing legal education or demonstrated ability to organize and present effectively continuing legal education. Demonstrated ability arises partly from the extent to which individuals with legal training or educational experience are involved in the planning, instruction and supervision of the program.

(B) The program or activity itself must be conducted by an individual or group qualified by practical or academic experience. The program, including the named advertised participants, shall be conducted substantially as planned, subject to emergency withdrawals and alterations.

(C.) Thorough, high quality, readable and carefully prepared written materials shall be made available to all participants at or before the time the course is presented, unless the absence of such materials is recognized as reasonable and approved by the Committee. A mere outline without citations or explanatory notations shall not be sufficient.

(D) The program shall be conducted in a comfortable physical setting, conducive to learning and equipped with suitable writing surfaces.

(E) Approval may be given for programs where audio-visual recorded or reproduced material is used. Television, computer, videotape, audiotape, simultaneous broadcast, teleconference, computer network and motion picture programs with sound shall qualify for CLE credit in the same matter as a live CLE program provided: (a) the original CLE program was approved for CLE credit as provided in these rule or the visual recorded program has been approved by the Committee under these Rules; (b) each person attending the visual presentation is provided written material as provided in Rule 104 (g)(4)(C) each program is conducted in a location as required in Rule 104 (g)(4)(D); and (d) there are a minimum of three (5) persons enrolled and in attendance at the presentation of the visually recorded program.

(F) Programs that cross academic lines may be considered for approval.

5. Approved Sponsors:

Continuing legal education programs sponsored by the following organizations as well as all organizations in good standing with the Association of Continuing Legal Education Administrators (ACLEA) shall be presumptively approved for credit, provided that the standards set forth in the Regulation (g) (4). through (g)(7) are met:

Accredited Law Schools (ABA, AALS)
Administrative Conference on the United States
American Bar Association and Bar Sections and Divisions
American Judicature Society
American Law Institute - American Bar Association Committee on Continuing Professional Education
Attorneys Liability Protection Society (ALPS)
American Association for Justice, formerly American Trial Lawyers Association
Defense Research Institute
National Association of Attorneys General
National Bar Association and Bar Sections and Divisions
National College of Trial Advocacy
National District Attorneys Association
National Institute of Trial Advocacy
National Judicial College
Practicing Law Institute
U.S. Air Force - Judge Advocate General School
U. S. Army - Judge Advocate General School
U. S. Department of Justice - Office of Legal Education
U. S. Navy - Naval Justice School
Veterans Administration - Office of General Counsel

V. I. Bar Association and other state and territorial bar and trial lawyer associations

6 Approved seminars may be advertised in informational brochures and program materials provided by the sponsoring body. Organizations listed in Regulation 4.2 whose programs are presumptively approved shall give adequate notice that a program or seminar it conducts is not approved for MCLE credit in the event the program or seminar does not meet the standards set forth in Rules 104 (g)(4)(A) through Rule 104 (g)(4)(E)

7. The Committee may at any time re-evaluate and grant or revoke presumptive approval of a provider.

8 Any organization not included in Rule 104 (g) (5) above, desiring approval of a course or program shall apply to the Committee by submitting an application on a form to be obtained from the Committee and supporting documentation at least forty-five (45) days prior to the date for which the course or program is scheduled, together with any sponsorship fee as may be required by the Committee. The Committee will advise the applicant in writing by mail within ten (10) days of the receipt of the completed application whether the program is approved or disapproved. Applicants denied approval of a program may appeal such a decision by submitting a letter of appeal to the Committee within fifteen (15) days of the receipt of the notice of disapproval.

9. An attorney desiring approval of a course or program which has not otherwise been approved shall apply to the Committee by submitting an application on a form to be obtained from the Committee and supporting documentation as follows:

(A) If approval is requested before the course or program is presented the application and supporting documentation shall be submitted at least forty-five (45) days prior to the date for which the course or program is scheduled.

(B) If approval is requested after the applicant has attended a course or program the application and supporting documentation shall be submitted within ninety (90) days after the date the course or program was presented or prior to the end of the calendar year in which the course or program was presented, whichever is earlier.

(C)The Committee shall advise the applicant in writing by mail within ten (20) days of the receipt of the completed application whether the program is approved or disapproved. Applicants denied approval of a program may appeal such a decision by submitting a letter of appeal to the Committee within fifteen (20) days of the receipt of the notice of disapproval.

(D) The provider of an approved continuing legal education program may announce or indicate as follows:

The course has been approved by the V. I. Bar Association Committee on Legal Education and Admissions to the Bar for _____ hours of CLE credit.

(E) Within forty-five (45) days following an approved legal education program conducted in the Virgin Islands, the sponsor shall furnish the Executive Director of the of V. I. Bar Association a list of V. I. Bar Association attendees.

(h) Effective Date.

The effective date of this Rule shall be January 1, 2008. Starting January 1, 2008, and every year thereafter, unless otherwise ordered by this court, active members shall complete the total number of CLE course hours as required in this Rule.

APPENDIX 1

**Virgin Islands Bar Association
27 & 28 King Cross Street
Phoenix Court Business Complex
P.O. Box 4108
St. Croix, U.S. Virgin Islands 00820
Tel: (340) 778-7497
Fax: (340) 773-5060**

FOR VIBA USE ONLY

CLE hours:
Ethics Hours:
Reporting Year:
Approved: Y N Approval/Denial Date:

ATTORNEY APPLICATION FOR CLE CREDIT/ CERTIFICATION OF ATTENDANCE

Check if new address of record.

1. Applicant Information:

Name: _____ Virgin Islands Bar Association ID
Number: _____ Address: _____
_____ Daytime Phone: _____
E-Mail
Address: _____

2. Title of Program: _____
Course Sponsor: _____ Accrediting Institution: _____
3. Total CLE Hours: _____ including (_____) Ethics Hours
Date(s) of course: _____
Location(s): _____

4. Circle all that apply: LIVE VIDEO AUDIO CD-
ROM IN-OFFICE SATELLITE
TELECONFERENCE INTERNET
TEACHING LECTURING

5. Course Registration Fee: \$ _____ Target
Audience: Clients _____ Attorneys _____ Other _____

6. **Required Attachments for Course Attendees (live, in-office, self-study courses):**

a. All courses: Program schedule *or* agenda (times are needed to verify credit hours), *and*

- b. Courses not automatically approved for credit: Course materials (table of contents) *or* statement describing the subject matter (information is needed to determine whether course shall be approved for credit)

7. Required Attachments for members seeking credit for Teaching or Lecturing:

- a. Statement certifying the number of hours spent in preparation for the class or lecture and number of hours spent delivering lecture to the audience (times are needed to verify credit hours), *and*
- b. Course syllabus, lecture outline *or* statement describing the subject matter (information is needed to determine whether activity shall be approved for credit)

8. Required Attachments for members seeking credit for VIBA participation:

- a. Statement describing the officer's or committee's tasks, the scope of the member's participation and the number of hours actually expended attending meetings or working on assigned tasks

9. CERTIFICATION: I certify under the penalty of perjury that I attended _____ hours, including () Ethics hours, of the above-named courses.

Signature of Attorney: _____ Date: _____."

DONE AND SO ORDERED this 9 day of August, 2007.

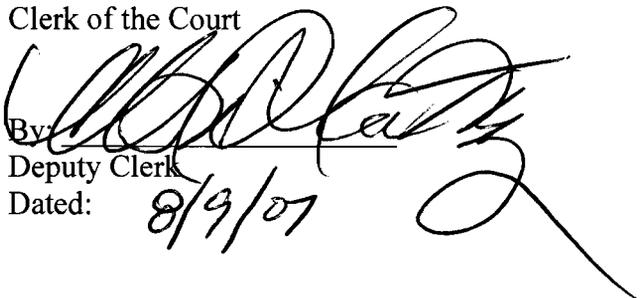

IVE ARLINGTON SWAN
Associate Justice


MARIA M. CABRET
Associate Justice


RHYS S. HODGE
Chief Justice

ATTEST:

Venetia H. Velazquez
Clerk of the Court

By: 
Deputy Clerk
Dated: 8/9/07