

ANNUAL REPORT
OF THE
SOUTH CAROLINA COMMISSION
ON
CONTINUING LAWYER COMPETENCE
TO THE
SOUTH CAROLINA
SUPREME COURT

SUBMITTED JULY 17, 1987

108780

U.S. Department of Justice
National Institute of Justice

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The Supreme Court of South Carolina
COMMISSION ON CONTINUING LAWYER COMPETENCE

TELEPHONE
803-799-5578

July 17, 1987

P.O. BOX 2138
COLUMBIA, S.C. 29202

The Honorable Julius B. Ness
Chief Justice, South Carolina Supreme Court
Post Office Box 11330
Columbia, South Carolina 29211

Re: Annual Report - Commission on
Continuing Lawyer Competence

Dear Mr. Chief Justice:

Your attention is invited to the enclosed annual report which generally summarizes the activities of the Commission on Continuing Lawyer Competence. Copies are are being provided concurrently to all members of the Court and to the South Carolina Bar.

The Commission would appreciate and welcome any questions or comments you may have concerning our operation of the mandatory continuing legal education and lawyer specialization programs.

Warm regards.

Yours very truly,

John E. Johnston, Chairman
Commission on Continuing
Lawyer Competence
Post Office Box 87
Greenville, South Carolina
29602

(803) 242-6440

NCJRS

JAN 21 1988

ACQUISITIONS

JEJ/ng
Enclosure

cc: Associate Justices of the South Carolina Supreme Court,
w/enclosure
Mr. T. Emmet Walsh, President, S.C. Bar, w/enclosure
Mr. Robert Wells, Executive Director, S.C. Bar
w/enclosure

General

After seven years experience with mandatory continuing legal education (MCLE) and lawyer specialization, South Carolina is recognized by the American legal profession as a leader in these areas. During the past year, the American Bar Association invited representatives of the Commission on Continuing Lawyer Competence to participate in the meetings of its standing committees on lawyer competence and lawyer specialization. Other states call or write frequently to seek advice and assistance from our experience with these programs. The Court and our State have every reason to point with pride to our accomplishments in these important areas. Twenty-seven states now have MCLE programs and nine have certified specialization or designation programs (see Appendix A). Many of these states have used South Carolina's regulations and experience to guide their entry into MCLE and/or specialization.

MCLE obviously has the confidence of the attorneys, judges, and the citizenry of South Carolina. Our attorneys have responded to MCLE beyond our expectations. The average attorney under the mandate completed more than 16 hours CLE during 1986. Some attorneys devote over 100 hours to CLE.

Mandatory Continuing Legal Education

During 1986, 4747 lawyers filed reports of compliance with MCLE requirements. For the year, 18 waivers were approved based on unusual hardship or extenuating circumstances. 32 exemptions were granted under our regulations providing for such exemption, upon request, after having engaged in the practice of law for more than 30 years.

A recently completed survey of 425 randomly selected reports indicates that course/seminar quality remains very high. Of the 291 reports that included comments on course quality, 33% rated the courses excellent, 63% good, 3% fair, and .03% poor. Last years ratings were respectively, 34% excellent, 58% good, 6% fair and 1% poor.

In-state programs are the most popular with our attorneys. Of 1,029 separate courses attended by the survey group, 763 were conducted in South Carolina. Most of these in-state programs wre held in Columbia (454), Greenville (100), Charleston (81), and Hilton Head (50). 266 courses from the survey group were held out-of-state. Of the in-state programs, 694 (91%) were conducted by in-state sponsors.

The following summary from the survey affords more detailed information concerning the MCLE program:*

MCLE Course Ratings:

| | |
|------------|-----------|
| Excellent: | 96 (33%) |
| Good: | 183 (63%) |
| Fair: | 11 (3%) |
| Poor: | 1 (.03%) |

Handout Ratings:

| | |
|-------|-----------|
| High: | 118 (95%) |
| Low: | 6 (5%) |

| | |
|---|------|
| Average Number of Approved CLE Hours Carried Forward to 1987: | 7.64 |
|---|------|

| | |
|-----------------------------------|-------|
| Total Number of Courses Attended: | 1,029 |
|-----------------------------------|-------|

| | |
|-----------------------------------|-----------|
| Number held in South Carolina | 763 (74%) |
| Number held out of South Carolina | 266 (26%) |

Sponsorship of In-State Programs:

| | |
|-------------------|-----------|
| In-state sponsors | 694 (91%) |
| Foreign sponsors | 65 (9%) |

* Error Factor: 5%

It is clear that the various programs offered to attorneys have improved and that the variety available is much broader than in the first years of MCLE. This has been a positive feature that has resulted from the decision to establish MCLE requirements. There is still room for improvements in CLE programming but the comments by our lawyers who attend indicate that our various sponsors (primarily the South Carolina Bar) are doing well (see Appendix B for all the comments made by the survey group concerning CLE courses or the MCLE program).

More than 99% of those members of the bar under the mandate complied fully with MCLE and filing requirements. Only four members were suspended from the practice of law for non-compliance, our best record since MCLE was established. The overall record of compliance among our attorneys is excellent.

Certified Specialization

South Carolina's specialization program is running smoothly. Three fields have been designated by the Court for specialization: Taxation; Estate Planning and Probate; and Employment and Labor Law.

In the Taxation area, a total of 58 specialists have been certified. In recent activity by the Taxation Law Specialization Advisory Board, four applicants were recommended for certification; one applicant was not favorably considered. Four applications for certification are currently pending.

The Estate Planning and Probate specialty currently has 21 specialists certified. At its most recent meeting (May

1987) the Estate Planning and Probate Law Specialization Advisory Board considered the results of its written examination of two applicants. Neither applicant received a satisfactory score (80% or better) and were not recommended for certification. One application is presently pending. The estate planning and probate law examination, which is given once each year, is being revised. The Board plans to administer the examination again in or about February 1988.

The first class of Employment and Labor Law specialists is presently before the Court for certification. Seventeen of the 18 applicants, including the five members of the specialization advisory board, were determined to meet all the requirements for certification and their names were submitted to the Court by the Commission following its May 29, 1987 meeting. Five applications for certification are pending before the advisory board.

The Commission is not considering the establishment of any new specialty fields at this time.

Commission Membership

Current members of the Commission and the dates of expiration of their respective terms are indicated below:

| | |
|-----------------------------|-----------------|
| John E. Johnston, Chairman | January 1, 1989 |
| Paul A. Sansbury, Secretary | January 1, 1989 |
| Saunders M. Bridges | January 1, 1988 |
| Theron G. Cochran | January 1, 1990 |
| James M. Connor | January 1, 1989 |
| William N. Epps, Jr. | January 1, 1988 |
| Robert M. Erwin, Jr. | January 1, 1989 |

Joseph T. McElveen, Jr.
Melvin B. McKeown, Jr.
Stephen A. Spitz

January 1, 1988
January 1, 1990
January 1, 1990

Mr. McKeown was recently reappointed by the Court for a second three year term.

Administration and Finance

One change was made in the administrative staff this past year. Harris W. Hollis, the director since the Commission was established resigned effective December 1, 1986. The Commission hired to succeed Mr. Hollis, Harold L. Miller, who was retiring from the Army's Judge Advocate General's Corps after over 30 years service. Mr. Miller joined the Commission on December 1st. Our very able administrative assistant, Nita Gilpin, remains with the Commission. Part-time student help is employed, as needed, to assist with various clerical tasks. An additional full time employee was considered but rejected as part-time student help has been satisfactory, is cheaper, and because the administrative workload is not constant but fluctuates greatly during the year.

As the Court will recall, the Commission borrowed \$61,330 from the South Carolina Bar to help finance its organizational costs. That loan was repaid in January 1986. Thereafter, the decision was made to reduce our filing fee from \$25.00 to \$20.00. The income received during 1986 proved to be adequate to support Commission needs and no increase in filing fees is presently indicated for the foreseeable future. However, to encourage more timely filing of compliance reports and to shift some administrative costs incident to such late filings to that small percentage of

the bar responsible therefor, the Commission recently established a late filing fee of \$50.00 and raised the reinstatement fee for suspended attorneys from \$50.00 to \$100.00.

We are in very sound financial condition. Our annual audit commenced July 13th; a copy of the audit report will be forwarded to the Court upon completion. Our fiscal year was changed to 1 July - 30 June (formerly 1 June - 31 May) during the past year.

Location of Commission Office

The Commission office is presently located in the University of South Carolina Law School. However, the space provided (about 500 square feet) is no longer adequate for our needs. Too, the time is approaching when the Law School will require this space for its own purposes. Accordingly, the Commission has accepted the invitation of the South Carolina Bar to lease and occupy space in its new building. We have estimated our needs into the foreseeable future to be 1200 square feet of floor space. That space should very adequately accommodate our administrative staff and provide ample space for equipment and files.

FOR THE COMMISSION:



John E. Johnston

Chairman

JEJ/ng

Attachments

APPENDIX A

Mandatory CLE

| | |
|----------------|---|
| ALABAMA | Twenty-four hours over two years |
| COLORADO | Forty-five hours over three years |
| DELAWARE | Fifteen hours every year |
| GEORGIA | Twelve hours every year |
| IDAHO | Thirty hours over three years |
| INDIANA | Thirty-six hours over three years |
| IOWA | Fifteen hours per year |
| KANSAS | Thirty-six hours over three years |
| KENTUCKY | Fifteen hours per year |
| LOUISIANA | Fifteen hours every year (as of 1/1/88) |
| MINNESOTA | Forty-five hours over three years |
| MISSISSIPPI | Twelve hours per year |
| MISSOURI | Fifteen hours every year |
| MONTANA | Fifteen hours per year |
| NEVADA | Ten hours per year |
| NEW MEXICO | Fifteen hours every year |
| NORTH DAKOTA | Forty-five hours over three years |
| OKLAHOMA | Twelve hours every year |
| SOUTH CAROLINA | Twelve hours every year |
| TENNESSEE | Twelve hours every year |
| TEXAS | Fifteen hours every year |
| VERMONT | Twenty hours over two years |
| VIRGINIA | Eight hours every year |
| WASHINGTON | Fifteen hours every year |
| WEST VIRGINIA | Twenty-four hours over two years |
| WISCONSIN | Fifteen hours every year |
| WYOMING | Fifteen hours every year |

Specialization

| | |
|----------------|---------------|
| ARIZONA | Certification |
| CALIFORNIA | Certification |
| FLORIDA | Designation |
| GEORGIA | Designation |
| IOWA | Designation |
| NEW JERSEY | Certification |
| NEW MEXICO | Designation |
| SOUTH CAROLINA | Certification |
| TEXAS | Certification |

APPENDIX B

Comments

I have always found the courses to be understandable and of great use to the general practitioner.

This is an excellent program (S.C. Defense Trial Attorneys Annual Joint Claims Meeting)

Some CLE's tend to be a repeat of the same program from the year before. Unfortunately this cannot be discovered until one attends the program-more practical updates are needed.

Very good. Speaker well prepared (S.C. Bar-The New Probate code).

Both seminars were excellent (Wake Forest-N.C. Annual Review - N.C. Academy of Trial Lawyers - Insurance Law)

Very Good (Breckenridge Management Institute-Medical & Professional Business Management).

I do feel that the programs are improving.

Excellent Presentations that keeps one up-to-date with the latest ideas, procedures and work-ups for the litigation attorney.

Would be beneficial if course materials could be mailed in advance to registrants; fee for CLE courses are too high.

Suggestion-Try how-to workshops-Federal Tort Claims, Workman Compensation Claims-Preparing an appeal.

Generally most of the programs were good to very good, but some individual presentations were average.

Very good-Please have more seminars at the Tech center. Please have a criminal law seminar.

Overall, the programs are very informative.

Generally speaking, I really enjoy the CLE program and it is apparent that the panel member put in a lot of work, particularly in preparation of the written materials. I

enjoy attending seminars at sites away from Columbia and have always thought that out of fairness to members of the bar from other parts of the state, more of these should be scheduled.

They continue to improve. I especially appreciate the video CLE seminars at Greenville Tec.

Uck! Why not rent video cassettes so we can run programs on our home TV (saving much travel time)...of course you would need to trust us "officers of the court" when we swear before notary that we actually viewed the video.

Very worthwhile and effective.

I have found most programs to be good. More practical displays such as mock trials might be more informative.

Some are good and some not so good, the best are when the judges are in attendance.

Continue with the Wed. & Sat. programs at the law school.

Video presentations are an enormous help. Traveling 6 hrs round trip to columbia is very burdensome at times.

Seminars & case materials are particularly useful & I consider the program a valuable & viable means of keeping current with matters relevant to my everyday practice.

Video broadcast was very poor. So many technical problems hard to concentrate on the material.

Fenwick Hall's program was outstanding.

Generally very good.

Of high quality with conscientious qualified instructors.

CLE programs are excellent. Family law courses becoming repetitive. Both S.C. Bar & SCTLTA do an excellent job.

The programs are generally good.

Very informative and helpful.

Generally speaking U.S. Army CLE programs are the best I have attended.

Speakers excellent & format was good (SCTLA Auto Torts IV)

All ICLE Programs including this one have been excellent (32nd Annual Estate Planning Inst.)

I still feel that the written handouts from previous seminars should be available at reduced prices whether at S.C. Bar office or at seminars as they used to be.

Please offer a course (refresher) in legal research, including info on the use of computers in this area.

CLE course materials are generally too sketchy with insufficient citation of authorities.

Very good, tax program a rare weak offering.

Excellent choice of participants.

Very comprehensive and quite valuable.

Good straight forward presentation of the materials.

I would like to see more seminars with individual speakers rather than panels. I feel that panel discussion tends to be more personal observation rather than actual law and interpretations of law.

It [MCLE] is a necessary adjunct to the practice and mostly improves the quality of legal service offered the public.

I continue to find the mandatory CLE program to be helpful and a good learning incentive.

National Criminal Defense College was more useful than 3 years of law school.

Initially I did not like MCLE but now as I look back, I think it is a very good program.

Programs that I attended were extremely helpful to my practice and are credit to profession. Keep up the good work.

I attended both of the above seminars at Greenville tec. The facilities and reception for the Probate seminar were excellent. The facilities and reception for the legal ethics seminar were totally unacceptable in addition to the fact that there were insufficient course materials available.

I find attendance at the programs extremely helpful and beneficial to me.

Need a new reporting form so we don't have to cram the name of the course in.

Need to make written materials available in advance. This can be done. It is vital to make CLE programs worthwhile. Use less pure lectures these are insufficient and boring. Have more/some practical learning. The above comments are not new. When is something going to change?

I find the CLE participation to be quite helpful in keeping abreast of the ever changing issues confronting lawyers. I look forward to many more useful functions in the future.

It [MCLE] is an excellent program and should be continued.

Very good programs and it is nice to have a repeat of some when I cannot arrange my schedule to attend.

The MCLE program is good for the profession in that it requires continued contact with legal developments through formal presentations.

I felt the class was well prepared, presented with great excellency, and was worth the time and effort to attend. (SC Solicitor's Conf.)

The ICLE program is superb.

The MCLE program is a good mechanism because it allows the lawyer to remain current on issues of topical concern which impact on the profession.

Excellent Program. It has been very helpful to me.

It's very useful [MCLE].

Particularly useful to deal with changes in the law.

Seminar on New Probate Code by Al Moses was the most informative and timely instruction I have participated in since requirements were begun.

The MCLE program is quite useful to practitioners in the legal profession. I sincerely hope the program will continue to maintain the high standards it now entertains.

Very professionally conceived [MCLE program].

I think attorneys should be allowed to listen to/view audio/video tapes at CLE seminars own their own time and receive credit upon their certification that they have done so. It is not convenient to travel to Columbia or Charleston and sometimes there are scheduling conflicts. One hesitates to order tapes and materials when no credit will be given.

The [MCLE] program helps me to keep current in the fields of law in which I am interested. I find the program to be quite satisfactory.

The MCLE program is an excellent way for attorneys to keep up to date with changes in the law, particularly in areas of practice. The only problem is so many areas are of interest, that it is impossible to attend all.

The speakers presenting the Estate Planning Seminar on Feb. 25 were, beyond any doubt the worst I have ever had to endure. For the most part they simply read from the hand-out; and they did that very badly. On the other hand, their hand-out is excellent. They obviously are estate planning experts, just poor public speakers.

Programs at the Bar Convention were poor. The JCLE program was excellent.

Better to have it, [MCLE] than not.
Lawyers should attend without compulsion but simply out of a need and desire to attempt to remain current.

The seminars I attended were most informative, and I felt that my time spent there was very productive. I found them to be a help to the young practitioner, like myself.

The [MCLE] program is helpful in keeping current in many areas of the law.

This whole [MCLE] program is incorrectly oriented. The Bar should require 12 hours of "core" S.C. Law Courses, not all kinds of miscellany!

Keep up the good work, need more programs in the Charleston area.

Outstanding program to improve & increase knowledge.

Although not always convenient, I find the CLE programs very beneficial and support them whole heartedly.

As I have stated before, I simply do not believe the [MCLE] program is worth, for the bar as a whole, the time & expenses that is required. About \$1,000,000.00 in out of pocket expense, plus some \$4,000,000.00 out a year in time.

Unnecessary-12 hours will not make an incompetent lawyer competent. Good attorneys will keep current without any CLE requirement.

The [MCLE] program is very educational and informative and is a valuable tool in keeping the practitioner updated on the latest legal developments. The professional manner in which the program is run is also to be commended.

CLE is OK, but mandatory CLE is ineffective window dressing. Requiring officers of the court to swear and have notarized these reports makes me wonder at the ignorance of the organization as to the standards of the bar and the requirements of the profession.

The programs are excellent. I wish these programs had been available long ago.

These programs are well adapted to the various specialties of practice of law. They have enabled me to keep abreast of my own area of practice while updating areas of general fields. The addition of legal ethics to the program should continue on an annual basis.