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ADm2018-02237

December 20, 2018

James M. Hivner, Clerk  
26 Tennessee Appellate Courts  
100 Supreme Court Building  
401 7th Avenue North  
Nashville, Tennessee 37219-1407

Re: Online Payment of Professional Privilege Tax

Dear Mr. Hivner:

I read today in the TBAToday (12/18/18) that the Tennessee Supreme Court is soliciting comments on a proposed rule change that would make delinquent professional privilege tax fees payable via an online portal and remove the requirement of a privilege tax delinquency notice sent by first class, requiring only an e-mail notice.

First, I am opposed to the payment of any professional privilege tax by an online method. I strongly prefer to receive a statement by mail and send a check by mail. I am not comfortable with providing an account number and other documentation to the Tennessee Supreme Court (or any other government agency) for an online payment. I realize that my check contains my bank and account number, but I write the check and I control the check. On an online payment basis, I believe that the online payment offers an opportunity to the government agency to have access to my banking account and make arbitrary withdrawals without my permission.

Second, although the numbers are getting smaller, many lawyers may not necessarily have the computer equipment and/or electronic equipment to send and receive e-mails and make payments online. I am sixty-six years old, and I do not participate in facebook, and I do not communicate by e-mails, and other online communication systems. I do have an e-mail address, but my paralegal handles all of those matters. For older lawyers who may not employ paralegals and secretaries, but maintain a small practice, the online payment and e-mail communication would be a hardship.

Third, I do not trust the electronic communication system. It is far too easy for third parties to hack or otherwise disrupt the communication services.

Forth, I try to avoid using e-mail communication and computer technology as much as possible, as my information and data could very easily be hacked, and I suffer type of loss or otherwise

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incur a problem. Therefore, it is my goal to keep as much of my professional work and personal business on paper rather than on a computer database.

If it appears that the Tennessee Supreme Court will change the rule anyway, why not send both the e-mail communication and a first class letter notice? In that fashion, the likelihood of a lawyer not receiving one of the two communications or notices would be far less as compared to the likelihood of only one notification being lost, hacked, or otherwise mishandled. Both the computer system and individuals in the post office are not perfect.

I realize that the paper hard copy mail communication and payment system is more expensive than what is being proposed. However, I would submit that keeping the check payment system and the "snail mail" post office notification system is the price that the Tennessee Supreme Court personnel would need to absorb in order to best serve its constituents.

Please feel free to contact me if you have any questions. I shall sincerely appreciate any kind consideration that you would give the views contained in this letter.

Sincerely yours,

A large, stylized handwritten signature in black ink, appearing to read 'Joseph H. Van Hook'. The signature is written over the typed name.

Joseph H. Van Hook

JHV:nmw

Hivner Letter

**appellatecourtclerk - Regarding proposed change to Tenn. Sup. Ct. R. 9, section 26**

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**From:** Matt Painter <mpainter@lbmc.com>  
**To:** "appellatecourtclerk@tncourts.gov" <appellatecourtclerk@tncourts.gov>  
**Date:** 12/21/2018 11:44 AM  
**Subject:** Regarding proposed change to Tenn. Sup. Ct. R. 9, section 26

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Dear Clerk Hivner,

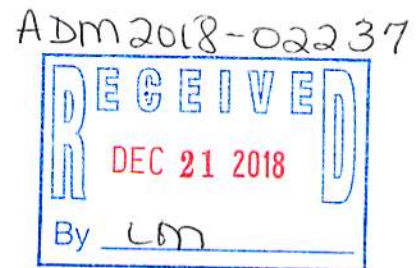
I have recently reviewed the proposed change to Tenn. Sup. Ct. R. 9, section 26 and I am opposed to the change to the extent that it provides that the "Notice" under Section 26.3 shall be provided to an attorney at his/her email address. My issues are:

1. we all receive such a huge number of emails each day, such a notice might be accidentally missed; and
2. almost all offices these days have powerful software programs used to screen email and eliminate "spam" and other potentially dangerous or unwanted emails based on algorithms leaving the potentiality that the email may never reach the attorney.

My suggestion is that the "Notice" should be sent to the attorney by the United State Postal System and email. I would err on the side of too much notice rather than running the risk of not reaching the attorney.

Respectfully submitted,

Mattison C. Painter  
TN BPR# 018986



ADM2018-02237

**Lisa Marsh - Court Solicits Comments on Rule Change for Professional Privilege Tax Payments**

<b>FILED</b>
DEC 19 2018
Clerk of the Appellate Courts Rec'd By <u>LJM</u>

**From:** Chris Clark <cclark@pattonandpittman.com>  
**To:** "appellatecourtclerk@tncourts.gov" <appellatecourtclerk@tncourts.gov>  
**Date:** 12/19/2018 3:59 PM  
**Subject:** Court Solicits Comments on Rule Change for Professional Privilege Tax Payments

I appreciate the courts giving the attorneys an opportunity to give an opinion on proposed changes of this nature. Other state agencies and local courts have not been so considerate. I sincerely appreciate this courtesy.

I support providing the ability to pay fees in an online portal. I oppose removing notification by postal service and relying solely on e-mail for notification.

Please continue to send notifications via Postal Service. I would assume that most of us have inner-office systems already in place whereby assistants and bookkeepers get our mail and handle accounts payable. I also assume that the lawyers that are not timely paying their bills (especially those to the Supreme Court or government) are those that are under staffed and already trying to handle too many aspects of their legal practice (legal duties and administrative duties). E-mail may be more convenient for those lawyers, but it will completely disrupt the workflows in law offices that are properly staffed. I, for one, have someone check my postal mail every day. They handle what they can and have me address the rest. I do not look at e-mail every day. If I am in a trial, it may not get checked for an entire week. I set up an automated response that I am in a trial, on vacation, in hearings, etc. to let the person know to call my secretary. If I am getting an automated bill from someone, that automated response will not work.

As lawyers, we already have enough to manage with our caseloads and office management. We should have the ability to staff our offices in such a way that someone else handles the administrative duties. Accounts payable can be tasked to an administrative. It seems that many of our state agencies keep making changes where the lawyer is e-mailed instead of mailed, which takes our assistants out of the workflow. I oppose putting more secretarial or administrative duties on lawyers when systems are already in place in law offices for staff to handle these tasks. If changes like this continue, it erodes the limited time in the day that we lawyers can bill and make a living merely to save the state time and money. This seems especially unkind given the fact that we are already forced to pay a tax that most wage earners (or people trading time for money) are not required to pay. If this rule change were to be implemented, it would mean that lawyers are are paying a tax and getting less service for that tax.

Additionally, our own rules give greater weight to something mailed by postal service than by e-mail. Service of a pleading is proper by postal service but not by e-mail unless the other party agrees. Service on individuals can be accomplished in some cases by postal service, not by e-mail. If our rules already tell us that notice by postal service is better than e-mail, why would we not treat it the same with something that could result in a loss of a professional license.

Thank you for considering my input.

Christopher G. Clark

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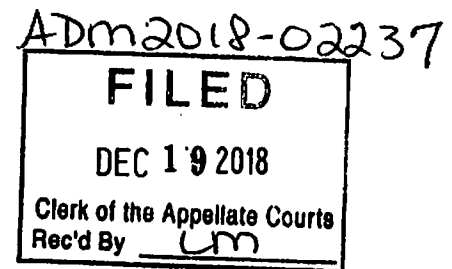
**Lisa Marsh - Prof. Priv. tax change suggestion**

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**From:** "Harvey L. Sproul" <sproul@sproullawoffice.com>  
**To:** <appellatecourtclerk@tncourts.gov>  
**Date:** 12/19/2018 1:48 PM  
**Subject:** Prof. Priv. tax change suggestion

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If it is limited to notice by interment, it would be more than one time--say three separate notices seven days apart, etc.



**Lisa Marsh - Proposed Rule Change for Privilege Tax Payments**

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**From:** Julie Travis Moss <jtmoss@blair-law.com>  
**To:** "appellatecourtclerk@tncourts.gov" <appellatecourtclerk@tncourts.gov>  
**Date:** 12/19/2018 11:48 AM  
**Subject:** Proposed Rule Change for Privilege Tax Payments

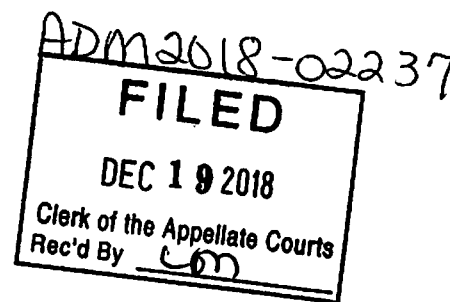
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I am not in favor of the proposed rule change to allow delinquency notice by email only because service of the notice by mail affords the opportunity for someone else to see the notice and notify the attorney of the delinquency. For example, if the attorney is unable to check email due to accident, illness, or other reasons, whoever is checking the mail for him or her, would (presumably) see the mailed notice and assist the attorney in responding. Such person may not have access to the attorney's email. The penalty for failing to pay the tax is harsh, resulting in suspension of the attorney's license, which affects not only the attorney, but the public. I would think that the Board would want to give the attorney as much notice as reasonably possible to correct the deficiency to avoid having to suspend dozens or hundreds of attorneys for delinquency (whatever the number is each year), which shakes the public's confidence in their legal system. And, given that a \$100 delinquent compliance fee is assessed to "defray the Board's cost in issuing the notice," the cost to mail the notice is covered. Notably, the fee is not being eliminated or reduced in the proposed rule change to email only.

Sincerely,

**Julie Travis Moss**  
Of Counsel  
The Blair Law Firm  
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