

IN THE SUPREME COURT OF TENNESSEE,  
AT NASHVILLE

FILED  
2014 DEC 11 PM 2:08

IN RE: RESPONSE IN OPPOSITION TO )  
PETITION TO AMEND SUPREME )  
COURT RULE 9, SECTIONS 10.10 )  
AND 10.2 )

NO. ADM2014-02187  
APPELLATE COURT CLERK  
NASHVILLE

**RESPONSE IN OPPOSITION TO PETITION TO AMEND SUPREME  
COURT RULE 9, SECTIONS 10.10 AND 10.2**

Respondent, a member of the Tennessee Bar, files this response in opposition to the forty-three (43) page Petition of the Tennessee Supreme Court Access to Justice Commission (“the Commission”) filed on November 10, 2014 requesting an amendment to Supreme Court Rule 9, Sections 10.10 and 10.2 to now require Tennessee Practitioners to describe in detail all pro bono service(s) provided by members of the Tennessee Bar.

**SUMMARY OF RESPONSE**

There is no good reason -- certainly no compelling reason -- to change Supreme Court Rule 9, Sections 10.10 and 10.2 -- which currently allows Tennessee Practitioners to voluntarily report or estimate the number(s) of pro bono hours devoted by a practitioner in a given calendar year -- to now require those practitioners to report their number(s) of pro bono hours. While the Petition indicates the rule change being sought will not lead to or result in a mandatory pro bono requirement of Tennessee Practitioners, one does not need a looking glass to surmise this may well be the goal or object of the Commission.

**Tradition and Public Policy to be Effected by Such Proposed Rule Change.**

No one, including your Respondent, questions that pro bono work -- or voluntarism in general -- is a noble and admiral quality or goal for human beings, not just attorneys. This does not mean that Tennessee Practitioners should be required to either perform pro bono services or

be required to report the extent of those pro bono services to the Board or to this Court. Pro bono work, like other charitable work, should be a private matter for the person providing such services. For this Court to rule otherwise would completely eviscerate the meaning and purpose of voluntarism or charity -- to humbly give of one's self or to assist others with no compulsion or obligation to do so.

As a trial attorney in this state, both in Nashville, and earlier in my career in Knoxville, I have learned that the people of the great state of Tennessee, including its attorneys and judges, are by in large good and decent people and that they are emblematic of the state's nickname -- Volunteers. Of this, I am proud. During this same time, though, I have also watched in dismay, and sometimes in disgust, as the Tennessee Code Annotated has more than doubled in size. This is the result of well-intentioned people (and special interests) who share a misguided belief that life in this state (and elsewhere) will somehow be made better by more laws and regulations -- instead of leaving well enough alone. By way of illustration, Tennessee now has a law mandating what pets barbers can permissibly have in their barber shops and we now have a local regulation in Davidson County requiring permits before people can feed the homeless.

To require all Tennessee lawyers to volunteer specific time to the service of others (or as the Petition requests that practitioners be required to report the extent of such activities) is yet another effort by a well-intentioned group seeking to further regulate and control private matters involving a group of persons, this time the members of the Bar. If this Court were to grant the Petition and amend the Rule, what next? Would the next Petition request that the Court require mandatory production of detailed time records of each Tennessee Practitioner for all pro bono work now required to be reported? In any event, one can safely envision that the instant Petition will not be the last before the Court on this topic.

**CONCLUSION**

Instead of more rules or changes in existing rules, as proposed by the Petition, this Court should instead let common sense prevail and let voluntarism and charity be personal matters of the heart -- as they always have been. Respondent respectfully submits the Petition should be denied as there is no compelling reason set out in the Petition why there is a bona fide need for "better information" or "better data" which the proposed rule amendment might provide. Instead, the information sought should remain personal to the volunteer who provided the charitable services.

Respectfully submitted,



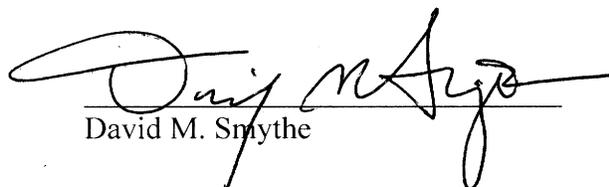
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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing has been placed in the United States Mail, postage pre-paid and properly addressed to:

Tennessee Supreme Court Access to Justice Commission  
c/o Dean Douglas A. Blaze  
University of Tennessee College of Law  
1505 W. Cumberland Avenue  
Knoxville, Tennessee 37996-0001

on this 11<sup>th</sup> day of December, 2014.



David M. Smythe