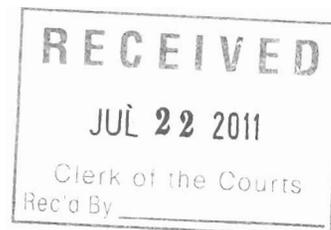


Brendan Loy
Formerly BPR #026871
8325 E. 28th Ave.
Denver, CO 80238
brendanloy@alumni.usc.edu
720-290-3810

July 19, 2011

Mike Catalano, Appellate Court Clerk
100 Supreme Court Building
401 7th Avenue North
Nashville, TN 37219-1407



Re: Docket Number M2011-01526-SC-RL2-RL

Mr. Catalano:

I am writing to comment on the proposed Rule change that would allow attorneys to assume inactive status (and pay a reduced fee to maintain that status) if they are practicing law in other jurisdictions but are no longer practicing law in Tennessee. Crucially, such a Rule change would also, as I understand the Professional Privilege Tax statute, exempt out-of-state attorneys from paying the \$400 annual privilege tax.

I strongly support the proposed Rule change, and only wish that it had been made sooner. Having graduated from Notre Dame Law School in 2007 and then moved to Knoxville, I took and passed the Tennessee Bar Exam in February 2008 while clerking for The Honorable Charles D. Susano, Jr. on the Tennessee Court of Appeals. I searched for employment in Tennessee, but ultimately received and accepted a job offer in Denver, Colorado (I had previously taken and passed the Colorado Bar Exam as well), and moved to Denver in October 2008.

Despite having never used my Tennessee law license, I was very proud of it, and very much desired to maintain it. However, because out-of-state attorneys could not go onto inactive status, I was required to pay the full \$170 BPR registration fee *plus* the \$400 privilege tax—a grand total of \$570 per year to maintain a license I never used. In 2009 and 2010, the small law firm in Denver for which I work generously covered these fees, despite the lack of any clear economic benefit for them to do so. In 2011, however, I was informed that the fees were simply too high to continue paying them indefinitely, and I would need to either cover them myself or surrender my Tennessee license.

As a young attorney on a limited budget supporting a family of five, I simply could not afford to pay \$570 per year to maintain my license. Accordingly, just a few months ago, with great regret, I submitted a Petition to Surrender Law License, which was granted on May 18, 2011 (see Docket No. M2011-01018-SC-BPR-BP). I am thus no longer licensed to practice law in Tennessee. This makes me especially sad because

I have not yet been practicing law for long enough to qualify for comity admission, so I would need to retake the Tennessee Bar Exam if I wished to be readmitted, at least during the next 2½ years.

Admittedly, this is fairly unlikely to be a problem as a practical matter, as I intend to stay at my current firm and remain in Colorado for the foreseeable future. But one never knows for certain what the future will bring. If I still had my Tennessee license, then in the event that I were to consider changing jobs and moving to a different jurisdiction, Tennessee would have been the first state I would have considered, given the lack of licensure hurdles. Instead, since I am no longer licensed in Tennessee, it would be no higher on my list than any other state where I might wish to live and work.

If the bill to maintain my license had been \$85 per year instead of \$570, there is little doubt that my law firm would have continued to cover it—and if they, for some reason, had not, I would have paid it myself. Simply put, \$85 is a manageable amount for an out-of-state attorney to pay to maintain licensure. \$570 is not. As such, I strongly support the proposed Rule change.

Frankly, I am uncertain why out-of-state inactive status was eliminated in the first place, back in 1985. I am equally uncertain as to why this rule has not previously been revisited, in light of the passage in 1992 of the Professional Privilege Tax, which greatly increased the stakes. Many other professions covered by the privilege tax have “inactive” status for out-of-state professionals, thus exempting them from the tax; it has always seemed odd that the legal profession does not.

In any event, personal circumstances aside, it has always struck me as unfair—and out of step with reasonable best practices—to impose such a hefty financial burden on out-of-state attorneys who receive no income from Tennessee (since they do not practice there), yet who merely want to maintain their license as a contingency, in the event they might wish to return to Tennessee at some point in the future. It also seems economically unwise. Since the economic benefit of professionals living and working in Tennessee is presumably desirable to policymakers, effectively encouraging out-of-state attorneys to give up their licenses—thus making it less likely that they will ever return to Tennessee—does not seem to be a rational policy choice.

My only additional comment would be a request that the Court consider making this change retroactive, *i.e.*, that the Rule be amended to allow formerly licensed Tennessee attorneys, such as myself, who have surrendered their licenses specifically because of the prior fee and tax structure, to apply to have their licenses reinstated (without re-taking the bar exam or applying for comity), provided that they pay the fees which they would have owed if they had been able to go “inactive” previously.¹ If

¹ I will not comment on whether it would be wiser and/or fairer to utilize the old fee & tax structure (\$570 per year), the old fee structure only (\$170 per year), or the new fee structure (\$85 per year) when attorneys seeking reinstatement are billed for their retroactive payments. In my personal case, I would be willing to pay even the higher amount, if necessary, since it would only be for a *single year*, if I could get my license restored (without re-taking the bar) for \$85 annually going forward.

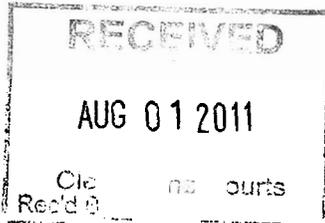
necessary, such attorneys could be required to swear in an affidavit that they surrendered their licenses because of the fee and tax structure that is being repealed. Perhaps this would only affect a handful of individuals, but I cannot imagine what harm it would do, and it would certainly be a blessing for those of us who have faced this dilemma. It would also raise at least a small bit of revenue for the state's coffers.

Thank you very much for your time and consideration.

Sincerely,

A handwritten signature in black ink that reads "Brendan L. Loy". The signature is written in a cursive style with a large initial 'B' and 'L'.

Brendan L. Loy



United States Department of Justice

**United States Attorney
Eastern District of Tennessee**

Please reply to the Chattanooga Office

Headquarters: 1110 Market Street, Suite 301
800 Market Street, Suite 211 Chattanooga, TN 37402
Knoxville, Tennessee 37902 423.752.5140
865.545.4167 FAX 423.752.5150
FAX 865.545.4176

220 West Depot Street, Suite 423
Greeneville, Tennessee 37743
208 Sunset Drive, Suite 509 Johnson City, Tennessee 37604 423.639.6759
423.282.1889 FAX 423.282.0849 FAX 423.639.6451

July 29, 2011

Michael W. Catalano, Clerk
100 Supreme Court Building
401 Seventh Avenue North
Nashville, TN 37219-1407

RE: No. M2011-01526-SC-RL2-RL – Filed: July 19, 2011

Dear Mr. Catalano:

Thank you for offering me the opportunity to offer comments, on behalf of the United States Attorney's Office in the Eastern District of Tennessee, regarding the above-referenced proposed amendment to the Supreme Court Rules. After consultation with my staff, some of whom may individually respond to this proposed change, I would like to propose the following revision:

In Section 20.2 of Supreme Court Rule 9, subsection (a), I would propose adding the word "private" before the word "practice." This section would then read "Attorneys who serve as a justice, judge, or magistrate of a court of the United States of America or who serve in any federal office in which the attorney is prohibited by federal law from engaging in the private practice of law."

The reason for this requested change is that some of our staff, on occasion, practice law in the state courts, on behalf of the United States of America, in order to collect certain civil debts, or preserve the United States' right to share in any distribution of funds toward the satisfaction of those debts. I think, technically, under the present definition, those attorneys would still have to pay the registration fee currently in effect.

I think that the change suggested hereinabove might require a redefinition of "the practice of law" contained in subsection (e) of Section 20.2.

If you have questions concerning this comment, please contact me. Otherwise, thank you again for allowing us to comment on this proposed change. I do think it would be most helpful to our staff of attorneys, given that they are prohibited from the private practice of law, to be relieved from the full payment of the registration fee.

Very sincerely yours,

A handwritten signature in black ink, appearing to read "William C. Killian". The signature is fluid and cursive, with a long horizontal stroke at the end.

WILLIAM C. (BILL) KILLIAN
United States Attorney

WCK:tsg

*United States District Court
Middle District of Tennessee
745 United States Courthouse
Nashville, TN 37203-3874
E-Mail: joe_b_brown@nmd.uscourts.gov*



*Joe B. Brown
United States Magistrate Judge*

Office: (615) 736-2119
FAX: (615) 736-2121

August 4, 2011

Michael W. Catalano, Clerk
100 Supreme Court Building
401 Seventh Avenue, North
Nashville, Tennessee 37219-1407

Re: M2011-01526-SC-RL2-RL Filed July 19, 2011

Dear Mr. Catalano:

I have reviewed the proposed amendments to Tennessee Supreme Court Rule 9, Sections 20.1, 20.2 and 20.8. I am in favor of their adoption. Federal Judges and their Clerks are prohibited from having a private practice of law and therefore an exemption, while they hold that status, appears entirely appropriate.

The only thing I would note is that in proposed Section 20.2, it refers to a magistrate of a court of the United States. The legal title is "Magistrate Judge" not "Magistrate."

Since the proposed change already refers to judge, I am not at all sure that Magistrate Judge or Bankruptcy Judge need even be mentioned as we should be included under the catch-all title of Judge.

Sincerely,

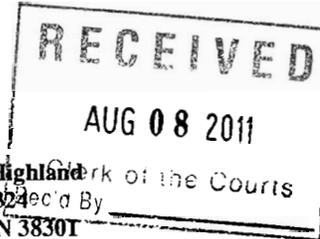


Joe B. Brown
United States Magistrate Judge

JBB: jmh

UNITED STATES BANKRUPTCY COURT
Western District of Tennessee

G. Harvey Boswell
U.S. Bankruptcy Judge



111 South Highland
Suite 324
Jackson, TN 38301
Telephone (731) 421-9370
Fax (731) 421-9377

Michael W. Catalano, Clerk
100 SUPREME COURT BUILDING
401 SEVENTH AVENUE NORTH
NASHVILLE, TN. 37219-1407

AUGUST 4, 2011

RE: No. M2011-1526 SCRL2-RL

DEAR MR CATALANO:

I write regarding the ABOVE ORDER PROPOSING TO AMEND
SUP. CT. RULE 9, §§ 20.1, 20.2 and 20.8. I AM happy that the
COURT HAS FINALLY come to realize that the current rule
creates AN INHERENT conflict for ALL FEDERAL Judges IN
OUR STATE. This Amendment will not affect me AS I
AM retiring IN July 2012, but I strongly recommend
it be enacted. It is long over due.

Sincerely
G. Harvey Boswell
U.S. Bankruptcy Judge



AUG 12 2011

UNITED STATES DISTRICT COURT

Eastern District of Tennessee

800 Market Street

Suite 141

Knoxville, Tennessee 37902

CHAMBERS OF
Judge Leon Jordan

(865) 545-4224

August 10, 2011

Michael Catalano, Clerk
100 Supreme Court Building
401 Seventh Avenue North
Nashville, TN 37219-1407

Re: Proposed Amendment to Tennessee Supreme Court Rule 9

Dear Mr. Catalano:

I write to comment on the proposed amendment to Tennessee Supreme Court Rule 9, § 20.2. I have served as a federal judge since 1988. Federal law prohibits me from engaging in the practice of law. As a matter of fairness, I wholeheartedly support the proposed amendment to § 20.2, Rule 9.

Sincerely,

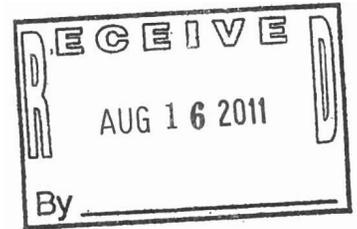
A handwritten signature in black ink that reads "Leon Jordan". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Leon Jordan
United States District Judge

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
KNOXVILLE, TENNESSEE



UNITED STATES DISTRICT COURT
R. ALLAN EDGAR
DISTRICT JUDGE



□ Eastern District of Tennessee
900 Georgia Avenue, Room 253
Chattanooga, TN 37402
Tel: (423) 752-5220
Fax: (423) 752-5276

□ Western District of Michigan
P.O. Box 698
Marquette, MI 49855
Tel: (906) 226-2084
Fax: (906) 226-6735

August 9, 2011

Elizabeth A. Sykes
Director, Administrative Office of the Court
Supreme Court of Tennessee
Nashville City Center, Suite 600
511 Union Street
Nashville, TN 37219

Dear Ms. Sykes:

I have received the proposed amendments to Tennessee Supreme Court Rule 9, Sections 20.1, 20.2 and 20.8.

My comment is that it is about time that these amendments are made. They are long overdue.

I am a senior status U.S. District Judge who, of course, is prohibited from practicing law. Nevertheless; for years I was required to pay the annual registration fee to the Board of Professional Responsibility (as well as the state privilege tax). As a consequence I was finally compelled for financial reasons to reluctantly surrender my law license.

Thanks for the opportunity to comment.

Very truly yours,

R. Allan Edgar
U.S. District Judge