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Comment on Access To Justice Commission Petition To Amend Rule 9, Section 10.10 Governing Pro Bono Reporting and Section 10.2 Governing The Annual Registration Fe

February 1, 2015

To The Honorable Justices of the Tennessee Supreme Court

Dear Justices:

We write to express our strong support for the Access to Justice Commission's proposal which would require lawyers to report their pro bono hours with their annual registration and which would offer them the opportunity to make voluntary financial contributions to entities furthering the cause of equal access to justice.

In 2014, a Frist Foundation Grant made it possible for Tennessee to conduct a comprehensive Statewide Legal Needs Assessment. The last legal needs assessment of this nature was completed in 2003. There are many important findings in this assessment, including but not limited to, the following:

(1) Each year there are tens of thousands of Tennesseans who experience significant legal problems but cannot afford counsel to assist them.

(2) This burden falls disproportionately on women, who compose about two-thirds of the Tennesseans at or below the poverty line, and also upon those over fifty (50) years of age.

(3) Almost all the Tennesseans who are at or below the poverty line have no college degree.

As the Court is well aware, Tennessee's access to justice work has been done pursuant to a beautiful collaboration amongst the judicial branch, bar associations, law schools, Legal Services Corporation and non-LSC entities. Also as the Court is aware, Tennessee has adopted certain ABA model access to justice rules, and has also led the way with respect to the adoption of other access to justice initiatives and rules for which the ABA has not yet adopted a model rule. (See attached chart.)

Tennessee lawyers have many choices for performing pro bono service which were not available a few years ago. Tennessee has launched the country's first interactive pro bono website, OnlineTNJustice.org, which has served as a model for other states. This website creates opportunities for many lawyers to do pro bono work including government, corporate, homebound and out of state lawyers who otherwise could not do so. In addition, thanks to funding from this Court and International Paper, Tennessee has established a statewide toll-free line, 1-888- ALEGALZ, which provides legal advice, legal information and referral information to clients, court clerks, lawyers, judges, clergy, and elected officials, to name a few. Pursuant to the Access to Justice Commission's strategic plan, the Commission is well on its way to establishing regular pro bono legal clinics in every judicial district in the state.

But, as the needs assessment funded by the Frist Foundation so clearly shows, despite this wonderful collaboration and the myriad of pro bono opportunities that have now been made available to Tennessee lawyers, the need for pro bono volunteers is greater now than ever. Based upon the incomplete data we now collect, we know that many lawyers are generous with their pro bono work but that some lawyers do not perform any pro bono service. We know that those who do pro bono work and who report it provide an astounding average of eighty-five (85) hours per year. However, although twice as many lawyers report doing pro bono work as they did five years ago, it appears that the percentage of lawyers reporting pro bono work has either peaked just below 50% or is actually headed downward from a high of approximately 47% last year.

Access to justice is a core value of our profession. A lawyer who is not doing pro bono work is not doing what is expected of Tennessee lawyers. Nothing makes this more clear than the Rules of Professional Conduct. Tennessee adopted the ABA Model Pro Bono Rule in 2008. Our Rule 6.1 provides "A lawyer should aspire to render at least 50 hours of pro bono public legal services per year." The comment to Rule 6.1 provides,

> Every lawyer, regardless of professional prominence or professional work load, has a responsibility to provide legal services to those unable to pay, and personal involvement in the problems of the disadvantaged can be one of the most rewarding experiences in the life of a lawyer. This Rule urges all lawyers to provide a minimum of 50 hours of pro bono service annually. (Emphasis added.)

Prior to the adoption of Rule 6.1, the Preamble to the Rules of Professional Conduct has provided as follows:

> A lawyer, as a member of the legal profession, is a representative of clients, an officer of the legal system, and a public citizen having special responsibility for the quality of justice. In addition, a lawyer should further the public's understanding of and confidence in the rule of law and the justice system because legal institutions in a constitutional democracy depend on popular participation and support to maintain their authority. A lawyer should be mindful of deficiencies in the administration of justice and of the fact that the poor, and sometimes persons who are not poor, cannot afford adequate legal assistance. Therefore, all lawyers should devote professional time and resources and use civic influence to ensure equal access to our system of justice for all those who because of economic or social barriers cannot afford or secure adequate legal counsel.
> (Emphasis added.)

Each one of us "has a responsibility to provide legal services to those unable to pay." But, pro bono is much more than a responsibility. As past TBA President Larry Wilks wrote in his President's column in 2007, "Pro bono is good for the soul. Whatever the source of inspiration may be, it never fails to bring a smile to my face. It never fails to lift my spirits."

The need is further exacerbated because funding for Legal Services Corporation has become woefully inadequate. When the Legal Services Corporation was first established, its initial goal was to provide all low income people with at least "minimum access" to legal services, defined as the equivalent of one legal services attorney for every 5,000 poor persons. This goal was briefly achieved in fiscal 1980, but not maintained due to inflation and subsequent budget cuts. Inadequate funding has led to either lay-offs of LSC lawyers or reduction in LSC legal staff through attrition. Consequently, even though the needs of Tennesseans have never diminished, the resources applied to those needs by the federal government have greatly diminished.

In short, despite the collaborative work we have done in Tennessee and all the hard work that is being done by many in our profession , the need is still significant and many Tennessee lawyers are not doing their part. A visit to any General Sessions court throughout the state of Tennessee will make it clear that many Tennesseans appear in court alone on matters of critical impact upon their lives. We need the Court to regularly remind us that we need all lawyers to do their part.

The Petition before the Court is the result of many years of study and of waiting for the right time. Ever since the creation of the Access to Justice Commission in 2009, the Commission has studied the reporting frameworks utilized in other states and waited to bide its time while watching the impact of our efforts on voluntary reporting. The Commission has chosen a model similar to the one utilized in Maryland because it is a common sense approach which has been proven effective, and imposes a minimum burden on practicing lawyers.

The information provided though pro bono reporting, coupled with the recently completed Legal Needs Study and other data being assembled, will give the courts, bar associations, and access to justice related entities, the ability to assess much more accurately the amount, type and location of the pro bono work being done. The resulting data will permit more efficient allocation of pro bono and legal services resources to underserved areas and facilitate the design of more effective programs. The data will also provide support for efforts to secure additional financial resources and will enhance the image of the profession.

The objections most often heard to proposals such as this one relate to completely unfounded predictions that it will lead to mandatory pro bono or fear that lawyers will get in some sort of difficulty if their good faith estimates are not precisely correct. There is no basis for these concerns. Tennessee lawyers who are also licensed in states that already require reporting attest to the fact that these fears are without merit.

The time to adopt this rule has come. It is difficult to over-emphasize the importance of leadership from the Tennessee Supreme Court, especially at this time. The judicial branch and the bar need to be reminded regularly of the critical importance of access to justice. This proposal gives the Court a new opportunity to lead in this area and to reaffirm that access to justice is one of the Court's highest priorities. We now have a Court with new personnel and a new Chief Justice. Sending a message to the public, the bar, and to other branches of government that access to justice remains a priority is as important now as it has ever been.

The Commission's petition is thoughtful, reasonable, balanced and needed. Please affirm the faith we have in the Court and act favorably upon it.

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2008-2014 ATJ Accomplishments

1) The TBA proposed, and the Court adopted, an amendment to Rule of Professional Conduct 6.1, to adopt an aspirational goal of 50 pro bono hours per year for Tennessee lawyers.

2) The TBA proposed, and the Court adopted, a new rule permitting lawyers to provide limited scope advice without a full conflicts check.

3) The TBA proposed, and the Court adopted, with the Rule Commission's imprimatur, an amendment to TRCP 23.08 expressly allowing the trial court to distribute residual class action funds to programs serving pro bono legal needs.

4) The TBA proposed, and the Court adopted, revisions to Supreme Court Rule 21, increasing the number of CLE hours lawyers are given for their pro bono legal representation.

5) Sua sponte, the Court amended Rule 5 to allow judicial research assistants to do some types of pro bono work.

6) The TBA proposed, and the Court adopted, changes to the Rules of Professional Conduct to allow lawyers admitted in other jurisdictions to provide pro bono legal services in Tennessee following a major disaster.

7) The TBA proposed, and the Court adopted, Rule 5.5, allowing lawyers authorized to practice law in Tennessee as in house counsel under Rule 5.5 to provide pro bono legal services through an established non-profit bar association pro bono program or legal services program.

2008-2014 ATJ Accomplishments

8) The Court revised Tennessee Supreme Court Rule 9, Section 20.11 and requested that every attorney estimate and report the pro bono hours they perform with the Tennessee Board of Professional Responsibility.

9) The TBA proposed, and the Supreme Court adopted, amendments to RPC 1.15 converting our Interests On Lawyers' Trust Accounts program from an opt out program to a comprehensive and mandatory IOLTA program. The TBA also proposed, and the Court adopted, rules requiring rate comparability for financial institutions which participate in the IOLTA program.

10) The Access to Justice Commission proposed, and the Court adopted, amendments to Rule 50(A) and created the status of emeritus lawyer to allow those attorneys who let their license become inactive provide pro bono legal service in Tennessee through an established non-profit bar association, pro bono program, or legal services program.

11) The TBA and the Access to Justice Commission jointly proposed, the Rules Commission agreed, and the Supreme Court adopted a limited scope representation rule that allows lawyers to enter into representations for limited scope work on either a pro bono or compensated basis, including limited means programs.

12) The Tennessee Bar and TALS have designed, implemented, funded, and launched the nation's first statewide interactive pro bono website, Online Tennessee Justice, now being copied for websites being launched by 4 other states and under review by 10 others.

2008-2014 ATJ Accomplishments

13) The commission, the Court, TALS, and International Paper have collaborated to launch 1-888-ALEGALZ, the first state-wide toll-free line for legal information and legal advice.

14) The Court has collaborated with the general sessions judge's conference on an outstanding pro se bench book also now under consideration by the trial judges conference.

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

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IN RE RULE 9, SECTION 10.10 AND SECTION 10.2
RULES OF THE TENNESSEE SUPREME COURT

No ADM2014-02187

COMMENT OF THE TENNESSEE BAR ASSOCIATION

The Tennessee Bar Association ("TBA"), by and through its President, Jonathan Steen; Chair of its Access to Justice Committee, James Barry; Chair of its Committee on Ethics and Professional Responsibility, Brian Faughnan; General Counsel, Paul Ney; and Executive Director, Allan F. Ramsaur, recommends that the Tennessee Supreme Court amend Tenn. Sup. Ct. R. 9 to (1) require lawyers respond to a request in the annual registration form for an estimate of the number of hours spent each year on pro bono legal services, but also permit the lawyers to opt out of providing the response; and (2) add a mechanism to the annual registration form for lawyers to make a voluntary donation to an access to justice fund.

BACKGROUND

This comment is in response to the petition and proposed amendments to Tennessee Supreme Court Rule 9, §§ 10.10 and 10.2, filed by the Tennessee Supreme Court Access to Justice Commission ("the Commission") on November

10, 2014. The Tennessee Supreme Court issued an order on December 2, 2014 soliciting written comments concerning the petition, with a submission deadline of Monday, February 2, 2015.

The Commission's proposed amendment contains two modifications to Tenn. Sup. Ct. R. 9, which governs lawyer registration and discipline in Tennessee. The modifications would essentially (1) shift from voluntary to required reporting of pro bono service; and (2) add a voluntary financial donation (included as an "opt out" contribution of $50) in support of an access to justice fund. Both changes would be incorporated into the annual Board of Professional Responsibility ("BPR") registration form and process.

The TBA has a long and consistent history of supporting pro bono service and other access to justice initiatives, including proposed rule changes very similar to aspects of the November 2014 proposal from the Commission.

As further detailed in the comment filed in this Honorable Court on September 30, 2009, a copy of which is attached as Exhibit B, pro bono reporting as part of the annual BPR registration began as an initiative of the TBA. The reporting issue was referred to the Court's then-newly created Commission to receive comments. At that time, the Commission unanimously recommended adoption of a rule requiring lawyers to respond to requests for information, including a provision that the lawyer could respond that they chose not to report.

In September 2009, the Court published for comment a proposal to make pro bono reporting wholly voluntary. The TBA again reiterated its support for a middle ground proposal between a completely voluntary program and a full-blown mandatory program.

In January 2015, the TBA House of Delegates and Board of Governors considered the Commission's proposed amendments, with input from both the TBA Access to Justice Committee and the TBA Ethics & Professional Responsibility Committee. After thorough deliberation, the TBA cannot support the Commission's proposed amendments in the exact form offered. The TBA appreciates the great need for a continued focus on pro bono legal services and access to justice initiatives, but is concerned about balancing the implementation of the proposed new rules against the serious consequences of any sanctions imposed against non-compliant attorneys.

THE COURT SHOULD REITERATE ITS POLICY AGAINST MANDATORY PRO BONO SERVICE

The TBA remains unambiguous in its opposition to any move toward mandatory pro bono service would resist vigorously any effort to mandate pro bono for Tennessee lawyers. This is consistent with the Commission's petition which makes clear that its proposal for shifting to mandatory reporting is in no way a move to mandatory pro bono, something the Commission is unanimously against.

This firm and unwavering position, shared by the Commission and the TBA, should be reiterated by the Court in any rule revisions adopted.

THE TBA SUPPORTS A REQUIREMENT THAT LAWYERS REPORT AN ESTIMATE OF THEIR PRO BONO SERVICE OR INDICATE THAT THEY CHOOSE NOT TO REPORT

The Commission's proposed amendment to Tenn. Sup. Ct. R. 9, §10.10(a) would provide that the lawyer shall "also file a pro bono reporting statement, reporting the extent of the attorney's pro bono legal services as activities during the previous calendar year."

The Commission included a recommendation to shift to required reporting of voluntary pro bono service as part of its *2014 Strategic Plan*. The Commission indicates proposed required reporting is intended as a means to collect more comprehensive information about pro bono service in Tennessee because the current voluntary reporting of pro bono service presents an incomplete representation of who is performing pro bono work and how much they are doing. The Commission notes that more complete data, gathered via required reporting, could inform planning, triage and training initiatives, as well as legislative policy and grant applications.

Prior to 2010, there was no means for Tennessee attorneys to report pro bono service as part of annual registration. While the information collected from the voluntary reporting has been helpful, the Commission is now indicating it is

ultimately insufficient. The Commission indicates that this data deficit can be rectified by shifting to required reporting of pro bono service, thus providing a more complete and accurate picture of volunteer legal services in the state.

The Commission's current proposal is very similar to one proposed by the TBA and endorsed by the Commission in 2008 but departs in one important respect. The TBA's 2008 proposal mandated reporting of pro bono service but also included a provision allowing lawyers to respond that they chose not to report.

While the TBA recognizes the need for increased pro bono services and commitment to access to justice initiatives, the TBA has concerns regarding the idea of there being any sanctions imposed against attorneys for being unable or unwilling to provide data about how much pro bono work they have performed as would be the case under the rule proposed by the Commission.

For this reason, the TBA reaffirms its existing policy position in support of a middle ground proposal – one that requires reporting but provides lawyers with a choice of either providing a good faith estimate of the number of pro bono hours performed or indicating that they are choosing not to report their hours. Under the TBA's 2008 proposal, the only way that a lawyer would run the risk of sanction is if they chose not to *and* failed to indicate on the form that they were choosing not to report.

Moreover, if the Court does decide to amend the rule to require estimated reporting of voluntary pro bono service without any provision to opt out, the TBA opposes any implementation of such a rule that would result in any lawyer being sanctioned in any way for failing to provide information about the pro bono they have or have not performed. The TBA opposes the notion that any lawyer could be administratively suspended or otherwise sanctioned simply for failing to provide information about their voluntary pro bono activities.

The TBA also recommends renewed efforts towards increasing awareness among Tennessee lawyers about the value to access to justice efforts of reporting pro bono service, due to the great potential that exists to collect additional data, especially over time. The TBA believes that if Tennessee lawyers knew more about how their voluntary reporting of their pro bono hours can, in and of itself, bolster the cause of access to justice a higher percentage of lawyers would voluntarily report their hours in order to provide the valuable information. Pursuit of such efforts, and increasing the percentage of lawyers who voluntarily provide the data being sought, is consistent with the Tennessee Supreme Court's continued prioritization of access to justice initiatives. In turn, a focus on the collection of the reported hours will increase individual lawyer's focus on the value of performing pro bono service and the obligations of Tenn. Sup. Ct. R. 8, RPC 6.1.

THE COURT SHOULD FACILITATE A VOLUNTARY CONTRIBUTION TO ACCESS TO JUSTICE DELIVERY

The proposed rule amendment by the Commission also requests an addition to Tenn. Sup. Ct. R. 9, §10.2 by adding a new subsection (d) to permit lawyers to make a financial contribution to support access to justice programs. In its petition and to illustrate the mechanics of this proposal the Commission proposes to include an "Optional Access to Justice Contribution" line on the registration form with a $50 donation that is automatically calculated into the annual fees. This would make the printed total due on the registration statement $220, the $170 annual fee and the $50 Optional Access to Justice Contribution.

Under the Commission's proposal, attorneys may change the amount of the donation or "opt out" altogether by "striking through the $50 and entering a different amount." The funds raised are proposed to be allocated to a list of direct legal service providers across Tennessee which are named in the petition.

The Commission's proposal includes information about the factors considered for this specific modification. In short, the Commission considered information from the ABA and other states with similar fundraising mechanisms and determined that the suggested amount of $50, presented as an "opt out" contribution, was the appropriate modification.

This is an issue on which the TBA has never before had the opportunity to formally comment. This new issue was given detailed consideration by the TBA Access to Justice and the Ethics & Professional Responsibility Committees before ultimately being considered by the TBA House of Delegates and Board of Governors.

The TBA recognizes the great and ever-growing need for financial support for legal services organizations and appreciates the proposal to explore options for developing new and sustainable sources of support, especially those that have been previously untapped. Other states have implemented a variety of contribution plans utilizing annual registration and this seems an appropriate means of generating financial support for access to justice initiatives.

The TBA, however, has significant concerns that attempting this through an *opt-out* approach will engender some of the wrong reactions among lawyers. The TBA supports adding a mechanism that would facilitate an *opt-in* contribution provision to allow registrants to add a voluntary donation rather than the proposed *opt-out* provision that would pre-calculate a total due that would already include a presumptive $50 donation.

Additionally, the TBA is again concerned that, if the Court adopts an approach to the voluntary contribution that requires lawyers to *opt out* of the $50 donation, then the laudable goals sought to be achieved should not come at the cost

of lawyers running any risk of being sanctioned for only paying the registration fee amount, regardless of what they indicate on the form calculations.

Thus the TBA proposes suggested additional language for Section 10.2(d) as follows: "No sanction shall derive from failure to pay the optional amount. A lawyer who makes a payment in an amount larger than the amount of the annual fee shall be deemed to intend to donate to the fund in the amount that the payment exceeds the annual fee."

The TBA also notes that including an opportunity for financial contribution as part of the annual registration, especially along with reporting of pro bono services, serves as a strong reminder of the encouragement in Tenn. Sup. Ct. R. 8, RPC 6.1 that all lawyers, in addition to providing pro bono services, should also "voluntarily contribute financial support to organizations that provide legal services to persons of limited means." The TBA also strongly supports the Commission's recommendation that contributions raised via the Access to Justice Fund be used to support organizations that provide direct services to low-income Tennesseans.

CONCLUSION

For the foregoing reasons, the Tennessee Bar Association respectfully requests that the Tennessee Supreme Court amend Rule 9 to require annual reporting of estimated hours of pro bono service, with a provision that allows

reporting lawyers to indicate that they are choosing not to report their hours. The TBA also recommends that the Supreme Court include a mechanism in the annual reporting for lawyers to make a voluntary contribution to an access to justice fund, but no amount should be automatically calculated in the fees and no sanction should result in the event that the lawyer pays the minimum $170 registration fee. To aid in consideration of the Commission's proposal and the TBA's comment the TBA attaches "Exhibit C," which is a redline of Tenn. Sup. Ct. R. 9, §10 consistent with the TBA comment.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing has been served upon the individuals and organizations identified in Exhibit "A" by regular U.S. Mail, postage prepaid within seven (7) days of filing with the Court.

Allan F. Ramsaur

Exhibit A

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September 30, 2009

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ADMINISTRATIVE OFFICE OF THE COURTS
NASHVILLE

The Honorable Michael Catalano
Clerk, Tennessee Supreme Court
Supreme Court Building, Room100
401 Seventh Avenue North
Nashville, TN 37219

IN RE: AMENDMENT TO RULE 9 -
RULES OF THE TENNESSEE SUPREME COURT
No. M2009-01818-SC-RL2-RL

Dear Mike:

Attached please find an original and six copies of the Comment of the Tennessee Bar Association in reference to the above matter.

As always, thank you for your cooperation. I remain,

Very truly yours,

Allan F. Ramsaur
Executive Director

cc: Chief Justice Janice Holder, Tennessee Supreme Court
Justice Cornelia Clark, Tennessee Supreme Court
Justice Gary Wade, Tennessee Supreme Court
Justice William Koch, Tennessee Supreme Court
Justice Sharon Lee, Tennessee Supreme Court
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IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

IN RE: AMENDMENT TO RULE 9, RULES OF THE TENNESSEE SUPREME COURT	)))))	No. M2009-01818-SC-RL2-RL

COMMENT OF THE TENNESSEE BAR ASSOCIATION

INTRODUCTION

The Tennessee Bar Association ("TBA"), by and through its President, Gail Vaughn Ashworth; Immediate Past President George T. "Buck" Lewis; Chair of its Access To Justice Committee, Debra House; General Counsel, William L. Harbison; and Executive Director, Allan F. Ramsaur, recommends that lawyers be required to respond to a request for a report of the number of hours spent each year on pro bono legal services.

BACKGROUND

After endorsement by the TBA House of Delegates, the TBA Board of Governors unanimously resolved at its June 2008 meeting to petition this Honorable Court recommending new pro bono service rule amendments. On November 19, 2008, the Court filed an order publishing the TBA's petition including the proposed amendments and soliciting written comments from judges, lawyers, bar associations and members of the public with a deadline of January 16, 2009.

On April 3, 2009, this Court granted two of the recommendations of the TBA including an aspirational 50-hour annual pro bono goal for lawyers and permitting limited conflicts checks for limited scope consultation. The Court then took under advisement two other recommendations including the instant reporting issue. The Court referred the proposal to require lawyers annually to respond to a request to report the number of hours of pro bono legal services to its newly created commission for consideration and recommendation.

The Tennessee Supreme Court Access To Justice Commission ("Commission") received comments and recommendations, including a draft submitted by the TBA,

at the Commission's July 17, 2009 meeting. The Commission unanimously recommended that a rule requiring lawyers to respond to a request for information, including a provision that the lawyer could respond that they chose not to report, be adopted.

On September 3, 2009, this Court published for comment a proposal to make pro bono reporting wholly voluntary. The TBA respectfully submits that the advancement of the cause of access to justice, encouragement of pro bono participation and enhancement of public trust and confidence in the justice system through measurement and reporting of service contributed by lawyers all lead to the conclusion that required reports are needed.

The arguments cited in the TBA's original petition are even more true today than they were 15 months ago. The economic situation has worsened with unemployment in Tennessee topping ten and seven tenths percent (10.7%). This economic crisis has generated more demand for legal aid and pro bono services for poor Tennesseans.

The ABA Center for Pro Bono reports that there are now eight (8) states which have required pro bono reporting including Florida and Mississippi among the Southeastern states. For more information about the status of other state policies, please see www.abanet.org/legalservices/probono/reporting.html.

What is proposed by the TBA and endorsed by the Commission is a middle ground proposal between a completely voluntary program and a full-blown mandatory reporting program as is required in these eight (8) other states. This uniquely Tennessee approach puts the full force of the Court behind its number one strategic priority, access to justice, without treading on the wholly volunteer spirit of pro bono service.

The TBA is strongly opposed to mandatory pro bono service. The only negative comments received regarding TBA's original petition objected to adoption of a rule as a first step towards mandatory pro bono. A move towards mandatory pro bono is not the TBA's position and the TBA would resist vigorously any effort to mandate pro bono service.

Both the TBA and the Commission, both of which include an extraordinarily diverse array of lawyers, do believe that a requirement that lawyers respond to a report with sanctions is needed. Such a plan will encourage pro bono service. The plan will give the Court and the Commission an opportunity to track the effect of recently enacted changes. It will provide good statistical data upon which the Commission can base its recommendations due in April 2010 and will assist the Commission in discharging its ongoing duties under Tenn. Sup. Ct. Rule 50, Section 2. In addition, it will allow any future actions to encourage pro bono service. Only through adequate required reporting can this happen.

Attached as Exhibit "A" is a redline of the proposal published by the Court with changes necessary to require lawyers to respond to a request to report. In addition, Exhibit "A" contains a new provision for Tennessee Supreme Court Rule 9, Section 20.12 which would unify, as recommended by the TBA and the Commission, the sanctions provisions of the new Tenn. Sup. Ct. R. 43 on IOLTA and this reporting rule. This unified sanctions regime, through the levy of fees assessed on those who do not comply, would provide the funds necessary to administer the program by pairing it with the IOLTA report.

The TBA respectfully submits that only through a requirement that lawyers respond to a request to report will the goals served by pro bono reporting be met.

RESPECTFULLY SUBMITTED,

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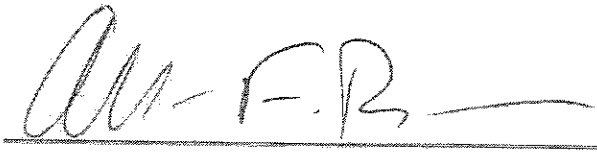
By: 

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CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing has been served upon the individuals and organizations identified in Exhibit "B" by regular U.S. Mail, postage prepaid on September 30, 2009

Allan F. Ramsaur

~~*APPENDIX A*~~*EXHIBIT A*
PROPOSED AMENDMENT TO TENN. SUP. CT. R. 9, NEW SECTION 20.11

20.11. Every lawyer who is required by section 20.5 to file an annual registration statement with the Board of Professional Responsibility shall report their pro bono service or report that they wish not to report their service ~~is requested to voluntarily file a pro bono reporting statement~~, reporting the extent of the lawyer's pro bono legal services and activities during the previous calendar year. In reporting the extent of the lawyer's pro bono legal services and activities, the lawyer is requested also to state whether or not the lawyer made any voluntary financial contributions pursuant to Tenn. Sup. Ct. R. 8, RPC 6.1(c), but the lawyer shall not disclose the amount of any such contributions.

The pro bono reporting statement shall be provided to the lawyer by the Board of Professional Responsibility with the lawyer's annual registration statement. The lawyer ~~is requested to~~shall complete the pro bono reporting statement and file it with his or her annual registration statement.

The pro bono reporting statement shall be promulgated by the Board of Professional Responsibility in substantially the following format:

> Many attorneys freely give their time and talents to improve our profession, our system of justice and our communities. Gathering information about this volunteer work and contributions by lawyers is essential to efforts to obtain and to maintain funding for civil and criminal legal services for the indigent and for promoting and maintaining the image of the legal profession. For that reason, the Supreme Court of Tennessee ~~requests~~ requires that you ~~voluntarily~~ report the extent of your pro bono activities in the preceding calendar year or report that you wish not to report this service or contributions.
>
> (1) I hereby report that in the calendar year covered by this report I performed the approximate number of hours of pro bono service indicated: ~~I year, I worked approximately:~~
>
> _____ hours in providing legal services without fee or expectation of fee to persons of limited means, *see* Tenn. Sup. Ct. R. 8, RPC 6.1(a)(1);
>
> _____ hours in providing legal services without fee or expectation of fee to charitable, religious, civic, community, governmental, and educational organizations in matters that are designed primarily to address the needs of persons of limited means, *see* Tenn. Sup. Ct. R. 8, RPC 6.1(a)(2);

_____ hours in the delivery of legal services at no fee or at a substantially reduced fee to individuals, groups, or organizations seeking to secure or protect civil rights, civil liberties, or public rights, or charitable religious, civic, community, governmental, and educational organizations in matters in furtherance of their organizational purposes, where the payment of standard legal fees would significantly deplete the organization's economic resources or would be otherwise inappropriate, *see* Tenn. Sup. Ct. R. 8, RPC 6.1(b)(1);

_____ hours in the delivery of legal services at a substantially reduced fee to persons of limited means, *see* Tenn. Sup. Ct. R. 8, RPC 6.1 (b)(2);

_____ hours participating in activities for improving the law, the legal system, or the legal profession, *see* Tenn. Sup. Ct. R. 8, RPC 6.1 (b)(3).

(2) I voluntarily contributed financial support to organizations that provide legal services to persons of limited means, *see* Tenn. Sup. Ct. R. 8, RPC 6.1(c): _____ yes; _____ no. (Please do not disclose the amount of any such contributions.)

_____ I CHOOSE NOT TO REPORT AS PERMITTED BY TENN. SUP. CT. R. 9, §20.11.

The Board of Professional Responsibility may promulgate such forms, policies and procedures as may be necessary to implement this rule. Failure to report as provided in this subsection shall be subject to fees for delinquent compliance , non-compliance and suspension as provided in Tenn. Sup. Ct. R. 9, §20.12.

The individual information voluntarily provided by lawyers in the pro bono reporting statements filed pursuant to this section shall be confidential and shall not be a public record. The Board of Professional Responsibility shall not release any individual information contained in such statements, except as directed in writing by the Tennessee Supreme Court or as required by law. The Board, however, may compile statistical data derived from the statements, which data shall not identify any individual lawyer, and may release any such compilations to the public.

Section 15. Upon its receipt of a lawyer's certification under Section 14 of this Rule, the Tennessee Bar Foundation shall, on or before March 31 of each year, report to the Board of Professional Responsibility any evidence of the lawyer's noncompliance known by the Tennessee Bar Foundation. Noncompliance with Tenn. Sup. Ct. R. 43 or Tenn. Sup. Ct. R. 9, § 20.11 will result in the following action:

(a) On or before May 15 of each year, the Board of Professional Responsibility shall compile a list of those lawyers who are not in compliance with Tenn. Sup. Ct. R. 43 or Tenn. Sup. Ct. R. 9, § 20.11. On or before the first business day of May of each year, the Board of Professional Responsibility shall serve each lawyer on the list compiled under Tenn. Sup. Ct. R. 43 or Tenn. Sup. Ct. R. 9, § 20.11 a Notice of Noncompliance requiring the lawyer to remedy any deficiencies identified in the Notice on or before May 31 of that year. Each lawyer to whom a Notice of Noncompliance is issued shall pay to the Board of Professional Responsibility a Noncompliance Fee of One Hundred Dollars ($100.00). Such Noncompliance Fee shall be paid on or before May 31 of that year, unless the lawyer shows to the satisfaction of the Chief Disciplinary Counsel that the Notice of Noncompliance was erroneously issued, in which case no such fee shall be due.

(b) On or before May 31 of that year, each lawyer on whom a Notice of Noncompliance is served also shall file with the Board of Professional Responsibility an affidavit, in the form specified by the Board of Professional Responsibility, attesting that any identified deficiencies have been remedied. In the event a lawyer fails to timely remedy any such deficiency or fails to timely file such affidavit, the lawyer shall pay to the Board of Professional Responsibility, in addition to the Noncompliance Fee, a Delinquent Compliance Fee of Two Hundred Dollars ($200.00).

(c) On or before June 30 of each year, the Board of Professional Responsibility shall:

(i) prepare a proposed Suspension Order listing all lawyers who were issued Notices of Noncompliance and who failed to remedy their deficiencies by May 31;

(ii) submit the proposed Suspension Order to the Supreme Court; and

(iii) serve a copy of the proposed Suspension Order on each lawyer named in the Order.

The Supreme Court will review the proposed Suspension Order and enter such order as the Court may deem appropriate suspending the law license of each lawyer deemed by the Court to be not in compliance with the requirements of Tenn. Sup. Ct. R. 43 or Tenn. Sup. Ct. R. 9, § 20.11.

(d) Each lawyer named in the Suspension Order entered by the Court shall file with the Board of Professional Responsibility an affidavit in the form specified by the Board of Professional Responsibility, attesting that any identified deficiencies have been remedied and shall pay to the Board of Professional

Responsibility, in addition to the Noncompliance Fee and the Delinquent Compliance Fee, a Five Hundred Dollar ($500.00) Suspension Fee as a condition of reactivation of his or her law license. Payment of all fees imposed by this section shall be a requirement for compliance with Tenn. Sup. Ct. R. 43 or Tenn. Sup. Ct. R. 9, § 20.11 and for reactivation of a license. The Board of Professional Responsibility shall not reactivate the license of any lawyer whose license is suspended pursuant to Tenn. Sup. Ct. R. 43 or Tenn. Sup. Ct. R. 9, § 20.11 until the Chief Disciplinary Counsel certifies compliance with the requirements of Tenn. Sup. Ct. R. 43 or Tenn. Sup. Ct. R. 9, § 20.11.

(e) All notices required or permitted to be served on a lawyer under the provisions of Tenn. Sup. Ct. R. 43 or Tenn. Sup. Ct. R. 9, § 20.11 shall be served by United States Postal Service Certified Mail, return receipt requested, at the address shown in the most recent registration statement filed by the lawyer pursuant to Supreme Court Rule 9, Section 20.5, and shall be deemed to have been served as of the postmark date shown on the Certified Mail Receipt.

Exhibit C

Tennessee Supreme Court Rule 9, Section 10

Section 10. Periodic Assessment of Attorneys

10.1. Every attorney admitted to practice before the Court, except those exempt under Section 10.3 (b) and (c), shall, on or before the first day of their birth month, file with the Board at its central office an annual registration statement, on a form prescribed by the Board, setting forth the attorney's current residence, office, and email addresses, and such other information as the Board may direct. The attorney's residence address, cellular telephone number, home telephone number, and personal non-government issued e-mail address are confidential and not public records. If, however, (1) the attorney failed to provide an office address, office telephone number, or office e-mail address; or (2) the attorney listed the residence address, cellular telephone number or home telephone number, or personal non-government issued e-mail address as the attorney's office address, office telephone number, or office e-mail address respectively, then the attorney's nonpublic information of the same category shall no longer be subject to the protection afforded under this Rule. The attorney may designate the primary or preferred address for receipt of correspondence from the Board. In addition to such annual statement, every attorney shall

file with the Board as necessary a supplemental statement of any change in information previously submitted within thirty days of such change.

10.2. (a) Every attorney admitted to practice before the Court, except those exempt under Section 10.3, shall pay to the Board on or before the first day of the attorney's birth month an annual fee.

(b) All funds collected hereunder shall be deposited by the Board with the State Treasurer; all such funds, including earnings on investments and all interest and proceeds from said funds, if any, are deemed to be, and shall be designated as, funds belonging solely to the Board. Withdrawals from those funds shall be made by the Board only for the purpose of defraying the costs of disciplinary administration and enforcement of this Rule, and for such other related purposes as the Court may from time to time authorize or direct.

(c) The annual fee for each attorney shall be One Hundred Seventy Dollars ($170), consisting of a One Hundred Forty Dollar ($140) Board of Professional Responsibility annual registration fee, a Ten Dollar ($10) annual fee due under Tenn. Sup. Ct. R. 25, Section 2.01(a) (Tennessee Lawyers' Fund for Client Protection), and a Twenty Dollar ($20) annual fee due under Tenn. Sup. Ct. R. 33.01C (Tennessee Lawyer Assistance

Program), and shall be payable on or before the first day of the attorney's birth month, and a like sum each year thereafter until otherwise ordered by the Court.

(d) In connection with the payment of the annual fee, every attorney shall have the opportunity to make an optional financial contribution to support access to justice programs. Funds raised through optional contributions will be distributed to access to justice programs which provide direct legal services to low income Tennesseans. No sanction shall derive from failure to pay the optional amount. A lawyer who makes a payment in an amount larger than the amount of the annual fee shall be deemed to intend to donate to the fund in the amount that the payment exceeds the annual fee.

10.3. There shall be exempted from the application of this rule:

(a) Attorneys who serve as a justice, judge, or magistrate judge 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 practice of law.

(b) Retired attorneys.

(c) Attorneys on temporary duty with the armed forces.

(d) Faculty members of Tennessee law schools who do not practice law.

(e) Attorneys not engaged in the practice of law in Tennessee. The term "the practice of law" shall be defined as any service rendered involving legal knowledge or legal advice, whether of representation, counsel, or advocacy, in or out of court, rendered in respect to the rights, duties, regulations, liabilities, or business relations of one requiring the services. It shall encompass all public and private positions in which the attorney may be called upon to examine the law or pass upon the legal effect of any act, document, or law.

10.4. Within thirty days of the receipt of a statement or supplement thereto filed by an attorney in accordance with the provisions of Section 10.1, the Board, acting through Disciplinary Counsel, shall acknowledge receipt thereof, on a form prescribed by the Court in order to enable the attorney on request to demonstrate compliance with the requirements of Sections 10.1 and 10.2

10.5. The Board monthly shall compile lists of attorneys who have failed to timely file the annual registration statement required by Section 10.1 or have failed to timely pay the annual registration fee required by Section 10.2. The Board shall send to each attorney listed thereon an Annual Registration

Fee/Statement Delinquency Notice (the "Notice"). The Notice shall state that the attorney has failed to timely file the annual registration statement required by Tenn. Sup. Ct. R. 9, Section 10.1, or has failed to timely pay the annual registration fee required by Tenn. Sup. Ct. R. 9, Section 10.2, and that the attorney's license therefore is subject to suspension pursuant to Tenn. Sup. Ct. R. 9, Section 10.6. The Notice shall be sent to the attorney by a form of United States mail providing delivery confirmation, at the primary or preferred address shown in the attorney's most recent registration statement filed pursuant to Section 10.1 or at the attorney's last known address, and at the email address shown in the attorney's most recent registration statement filed pursuant to Section 10.1 or at the attorney's last known email address.

10.6. (a) Each attorney to whom a Notice is sent pursuant to Section 10.5 shall file with the Board within thirty days of the date of mailing of the Notice an affidavit or declaration under penalty of perjury with supporting documentation demonstrating that the attorney has paid the annual registration fee or has filed the annual registration statement, and has paid a delinquent compliance fee of One Hundred Dollars ($100.00) to defray the Board's costs in issuing the Notice; or, alternatively, demonstrating that the

Notice was sent to the attorney in error, the attorney having timely paid the annual registration fee or having timely filed the annual registration statement. For purposes of this provision, the date of mailing shall be deemed to be the postmark date.

(b) Within thirty days of the expiration of the time for an attorney to respond to the Notice pursuant to Subsection (a) hereof, the Chief Disciplinary Counsel shall submit to the Court a proposed Suspension Order. The proposed Suspension Order shall list all attorneys who were sent the Notice and who failed to respond; failed to demonstrate to the satisfaction of the Board that they had paid the delinquent annual registration fee or had filed the delinquent annual registration statement, and had paid the One Hundred Dollar ($100.00) delinquent compliance fee; or, failed to demonstrate to the satisfaction of the Board that the Notice had been sent in error. The proposed Suspension Order shall provide that the license to practice law of each attorney listed therein shall be suspended upon the Court's filing of the Order and that the license of each attorney listed therein shall remain suspended until the attorney pays the delinquent annual registration fee or files the delinquent annual registration statement, and pays the One Hundred Dollar ($100.00) delinquent compliance fee and a separate reinstatement fee of Two Hundred Dollars ($200.00), and is reinstated

pursuant to Subsection (d).

(c) Upon the Court's review and approval of the proposed Suspension Order, the Court will file the Order summarily suspending the license to practice law of each attorney listed in the Order. The suspension shall remain in effect until the attorney pays the delinquent registration fees or files the delinquent registration statement, and pays the One Hundred Dollar ($100.00) delinquent compliance fee and the Two Hundred Dollar ($200.00) reinstatement fee, and until the attorney is reinstated pursuant to Subsection (d). An attorney who fails to resolve the suspension within thirty days of the Court's filing of the Suspension Order shall comply with the requirements of Section 28.

(d) Reinstatement following a suspension pursuant to Subsection (c) shall require an order of the Court but shall not require a reinstatement proceeding pursuant to Section 30.4, unless ordered by the Court.

(1) An attorney suspended by the Court pursuant to Subsection (c) who wishes to be reinstated and who has remained suspended for one year or less before the filing of a petition for reinstatement shall file with the Board a petition for reinstatement of the attorney's license to practice law demonstrating that the attorney has paid all delinquent annual registration fees or has filed the delinquent registration statement, and has paid the One

Hundred Dollar ($100.00) delinquent compliance fee and the Two Hundred Dollar ($200.00) reinstatement fee; or, alternatively, demonstrating that the Suspension Order was entered in error as to the attorney. If the petition is satisfactory to the Board and if the attorney otherwise is eligible for reinstatement, the Board, or the Chief Disciplinary Counsel acting on its behalf, shall promptly submit to the Court a proposed Reinstatement Order. The proposed Reinstatement Order shall provide that the attorney's reinstatement is effective as of the date of the attorney's payment of all delinquent registration fees or the date of the attorney's filing of the delinquent registration statement, and the attorney's payment of the One Hundred Dollar ($100.00) delinquent compliance fee and the Two Hundred Dollar ($200.00) reinstatement fee; or, alternatively, as of the date of entry of the Suspension Order if that Order was entered in error. An attorney resolves a suspension within thirty days for purposes of Section 10.6(c) if a proposed Reinstatement Order has been submitted to the Court within thirty days of the Court's filing of the Suspension Order.

(2) An attorney suspended by the Court pursuant to Subsection (c) who wishes to be reinstated and who has remained suspended for more than one year before the filing of a petition for reinstatement shall file with the Court a petition for reinstatement of the attorney's license to practice law

demonstrating that the attorney has paid all delinquent annual registration fees or has filed the delinquent registration statement, and has paid the One Hundred Dollar ($100.00) delinquent compliance fee and the Two Hundred Dollar ($200.00) reinstatement fee; or, alternatively, demonstrating that the Suspension Order was entered in error as to the attorney. The petitioner shall serve a copy of the petition upon Disciplinary Counsel, who shall investigate the matter and file an answer to the petition within thirty days. The Court shall review the record and determine whether to grant or deny the petition for reinstatement. If the Court grants the petition, the Reinstatement Order shall provide that the attorney's reinstatement is effective as of the date of the attorney's payment of all delinquent registration fees or the date of the attorney's filing of the delinquent registration statement, and the attorney's payment of the One Hundred Dollar ($100.00) delinquent compliance fee and the Two Hundred Dollar ($200.00) reinstatement fee; or, alternatively, as of the date of entry of the Suspension Order if that Order was entered in error.

10.7. (a) An attorney who claims an exemption under Section 10.3 (a), (b), (d), or (e) shall file with the Board an application to assume inactive status and discontinue the practice of law in this state. In support of the

application, the attorney shall file an affidavit or declaration under penalty of perjury stating that the attorney is not delinquent in paying the privilege tax imposed on attorneys by Tenn. Code Ann. § 67-4-1702, is not delinquent in meeting any of the reporting requirements imposed by Rules 9, 21, and 43, is not delinquent in the payment of any fees imposed by those rules, and is not delinquent in meeting the continuing legal education requirements imposed by Rule 21. The Board shall approve the application if the attorney qualifies to assume inactive status under Section 10.3 and is not delinquent in meeting any of the obligations set out in the preceding sentence. If it appears to the Board that the applicant is delinquent in meeting any of those obligations, the Board shall notify the applicant of the delinquency and shall deny the application unless, within ninety days after the date of the Board's notice, the applicant demonstrates to the Board's satisfaction that the delinquency has been resolved. Upon the date of the Board's written approval of the application, the attorney shall no longer be eligible to practice law in Tennessee. The Board shall act promptly on applications to assume inactive status and shall notify the applicant in writing of the Board's action. If the Board denies an application to assume inactive status, the applicant may request the Court's administrative review by filing in the Nashville office of the Clerk of the Supreme Court a Petition for Review

within thirty days of the Board's denial. The Court's review, if any, shall be conducted on the application, the supporting affidavit or declaration under penalty of perjury, and any other materials relied upon by the Board in reaching its decision.

(b) An attorney who assumes inactive status under an exemption granted by Section 10.3(a), (d), or (e) shall pay to the Board, on or before the first day of the attorney's birth month, an annual inactive-status fee in an amount equal to one half of the total annual fee set forth in Section 10.2(c) for each year the attorney remains inactive. Inactive attorneys who fail to timely pay the annual inactive fee and submit the registration form prescribed by the Board will be mailed a Delinquency Notice and will be subject to delinquent compliance fees and suspension as provided in Sections 10.5 and 10.6.

(c) An attorney who assumes inactive status under the exemption granted by Section 10.3 (e) and who is licensed to practice law in another jurisdiction shall not be eligible to provide any legal services in Tennessee pursuant to Tenn. Sup. Ct. R. 8, RPC 5.5(c) or (d).

10.8. (a) Upon the Board's written approval of an application to assume inactive status, the attorney shall be removed from the roll of those classified as active until and unless the attorney requests and is granted reinstatement to the active rolls.

(b) Reinstatement following inactive status, other than reinstatement from disability inactive status pursuant to Section 27.7, which has continued for five years or less before the filing of a petition for reinstatement to active status shall not require an order of the Court or a reinstatement proceeding pursuant to Section 30.4. The attorney shall file with the Board a petition for reinstatement to active status. Reinstatement shall be granted unless the attorney is subject to an outstanding order of suspension or disbarment, upon the payment of any assessment in effect for the year the request is made and any arrears accumulated prior to transfer to inactive status.

(c) Reinstatement following inactive status, other than reinstatement from disability inactive status pursuant to Section 27.7, which has continued for more than five years before the filing of a petition for reinstatement to active status shall require an order of the Court but shall not require a reinstatement proceeding pursuant to Section 30.4, unless ordered by the Court. The attorney shall file with the Court a petition for reinstatement to active status. The petitioner shall serve a copy of the petition upon Disciplinary Counsel, who shall investigate the matter and file an answer to the petition within thirty days. The Court shall review the record and determine whether to grant or deny the petition for reinstatement. If the Court grants the petition, the Reinstatement Order shall provide that the attorney's reinstatement is

effective as of the date of the attorney's payment of any assessment in effect for the year the request is made and any arrears accumulated prior to transfer to inactive status.

10.9. The courts of this State are charged with the responsibility of insuring that no disbarred, suspended, or inactive attorney be permitted to file any document, paper or pleading or otherwise practice therein.

10.10. (a) Every attorney who is required by Section 10.1 to file an annual registration statement with the Board ~~is requested to also~~ shall also file a pro bono reporting statement~~,~~. The pro bono reporting statement shall report an estimate of the extent of the attorney's pro bono legal services and activities during the previous calendar year or report that the attorney wishes not to report. The pro bono reporting statement ~~shall be in substantially the format provided in Appendix A hereto, and~~ shall be provided to the attorney by the Board with the attorney's annual registration statement.

(b) ~~The attorney is requested to complete the pro bono reporting statement and file it with his or her annual registration statement.~~ In reporting the extent of the attorney's pro bono legal services and activities, the attorney is also requested to state whether or not the attorney made any

voluntary financial contributions pursuant to RPC 6.1(c), but the attorney need not disclose the amount of any such contributions.

(c) The Board may promulgate such forms, policies and procedures as may be necessary to implement this Section. Failure to report, failure to timely report, or failure to report that the attorney chooses not to report, as provided in this subsection shall subject the attorney to fees for delinquent compliance or, non-compliance, and suspension as provided in subsection 10.5 and procedures as provided in subsection 10.6 of this rule.

(d) The individual information provided by attorneys in the pro bono reporting statements filed pursuant to this Section shall be confidential and shall not be a public record, unless the attorney waives confidentiality on the reporting statement solely to be considered for recognition by the Tennessee Supreme Court for pro bono work the attorney completed in the previous calendar year. The Board shall not release any individual information contained in such statements, except as directed in writing by the Court or as required by law. The Board, however, may compile statistical data derived from the statements, which data shall not identify any individual attorney, and may release any such compilations to the public.

Lisa Marsh - Comment on ADM2014-02187

From: "W. Andrew Fox" <andy@andrewfoxlaw.com>
To: <jim.hivner@tncourts.gov>
Date: 2/2/2015 6:22 PM
Subject: Comment on ADM2014-02187

FILED
FEB - 2 2015
Clerk of the Courts
Rec'd By _____

Mr. Hivner:

The public comment portion of the website erroneously directs the email to Mike Catalano. Also, when I tried to view this submission, I received an "access denied" error message. Please register my comment, included below, on the above docket.

With kind regards,

Andy Fox

Your Name: W Andrew Fox
Your Address: Gilbert & Fox Law Firm, 625 S. Gay St., Suite 540, Knoxville, TN 37902 Your email address: andy@andrewfoxlaw.com Your Position or Organization: Attorney Rule Change: Supreme Court Rule 10B Docket number: ADM2014-02187 Your public comments:

This comment refers to the Petition to Amend Tennessee Supreme Court Rule 9, Section 10.10 Governing Pro Bono Reporting in Section 10.2 Governing the Annual Registration Fee, Docket No. ADM2014-02187. This pending petition selection was not available in the drop-down menu for the public comment form.

I oppose the proposed changes.

The petition proposes that Tennessee attorneys, with their dues, support a number of public interest law groups, other than the Tennessee Legal Services Corporation. The groups the petition suggest should receive funding appear to either have a very narrow target clientele, such as "Volunteer Lawyer for the Arts"; represent a certain political viewpoint, such as "Justice for Our Neighbors"(which is a para-church organization); or they replicate the mission of the four organizations already funded by Tennessee Legal Services Corporation, which provides services for low income individuals.

Are these organizations accountable to anyone? Have these proposed recipients disclosed their financial records for inspection, including salaries for administrative and legal staff, to demonstrate that they actually need funding?

Regardless, I do not believe the Tennessee Supreme Court should be in the business of picking which issue-related public interest law firms should receive funding from the legal professionals of Tennessee, or anyone else. For the groups suggested by the Petition to receive funds in this manner would give the appearance of special approbation by the Tennessee Supreme Court, to the exclusion of other worthy issue-related public interest law firms. Issue-related public interest law firms should have equal footing in the marketplace, at least from the perspective of government sponsorship, i.e., no government sponsorship.

The petition offers no compelling reason why a select few non-issue-related public interest law firms should receive funds rather than the four groups supported by the Tennessee Legal Services Corporation. If anything, the Tennessee Supreme Court should instruct the Board to use any additional funds it receives to increase the

reimbursement rate for attorneys who take appointments. (Disclaimer: I have never accepted any appointment for compensation at the state rate, neither criminal nor domestic.) My perception is that Tennessee is accomplishing its due-process requirement to provide representation to indigent defendants in criminal and family law cases on the backs of attorneys receiving minimal compensation for their work.

I also oppose the proposal that reporting be mandatory. What would the purpose be of this need for information, other than to establish an argument for the requirement of providing pro bono services? With the impending report mentioned in the petition, it is clear that the Petitioners seek to juxtapose the legal needs of Tennesseans with the lack of services provided by attorneys, based upon what the Petitioners hope will be mandatory reporting requirements.

I oppose mandatory pro bono, which is almost oxymoronic. I do not oppose pro bono itself, having provided between 400-450 hours of intentionally * pro bono legal services – as I define the term, not necessarily as the Board does – to both individuals and organizations since 2010. I have not formally calculated the time I have spent since approximately April 2013, which is why I provided a range. I am not lazy or selfish, I just do not believe that lawyers can or should be regulated into being a "good lawyer", if the definition of a good lawyer includes having done pro bono work. Furthermore, to be required, under penalty of losing the ability to practice a chosen occupation, to give one's time or services away for free is nothing less than extortion and slavery.

I request the Tennessee Supreme Court also extend the date for response to this proposal.

* Intentionally means I started out with the understanding that the client would owe no fees, unless provided by a court order or agreement of the Defendant, in contrast to cases in which a client did not fulfill financial obligations.

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(This email may have been dictated with Dragon Naturally Speaking, which will occasionally select the wrong word or sets of words. Because E-mail is an informal communication method, I do not always thoroughly review the content after drafting. In the event the recipient finds any portion of this email confusing, please contact me.)
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FILED
2015 JAN 30 PM 2:38
KNOXVILLE

IN THE SUPREME COURT OF TENNESSEE,
AT NASHVILLE

IN RE: PETITION TO AMEND	)	
TENNESSEE SUPREME COURT	)	NO. ADM2014-02187
RULE 9, SECTION 10.10	)	
AND SECTION 10.2	)	

COMMENT OF THE KNOXVILLE BAR ASSOCIATION

The Knoxville Bar Association, by its Professionalism Committee and Board of Governors, has carefully considered the Petition to Amend Tennessee Supreme Court Rule 9, Section 10.10 and Section 10.2. For the following reasons, the Knoxville Bar Association opposes both the proposal for mandatory reporting of pro bono hours and the proposal to create a separate access to justice fund.

The Knoxville Bar Association commends the members of the Access to Justice Commission and fully supports the goal of increasing the number of pro bono hours provided by Tennessee lawyers and increased funding for programs providing legal services to low income individuals. The Knoxville Bar Association has an Access to Justice Committee, and many initiatives of the Association support the goals of the Access to Justice Commission.

The Knoxville Bar Association has carefully reviewed the Petition and has sought the opinions of its members regarding the proposals. The Professionalism Committee of the Knoxville Bar Association has a longstanding practice of evaluating proposed rule changes and carefully considered these proposals. In this instance, the Professionalism Committee had the benefit of the Chair of the Access to Justice Committee, Doug Blaze, graciously agreeing to present the Petition and the reasons for the proposals to the Committee. The Committee held an informative discussion and would like to thank Doug Blaze for his presentation.

The Professionalism Committee unanimously voted to recommend to the Knoxville Bar Association that the Knoxville Bar Association oppose both mandatory reporting and the creation of a separate fund. The matter was thoroughly considered at the meeting of the Board of Governors of the Knoxville Bar Association on January 21, 2015. The Board of Governors authorized this comment explaining the Association's opposition to the proposals.

The Knoxville Bar Association opposes mandatory pro bono reporting for the following reasons:

1. We question whether the data collected will be accurate enough to advance the stated goals. The proposal calls for an estimate and states that it should only take seconds. In order to provide even a reasonable estimate, time records would have to be created and tabulated. Otherwise lawyers have no way of providing an accurate estimate. Many of our members currently voluntarily report pro bono hours and report

spending significant time to produce a reasonable estimate.

2. We do not agree that mandatory reporting will cause lawyers to spend more time providing pro bono services.

The Knoxville Bar Association is also concerned about the possibility of lawyers being sanctioned and ultimately suspended for failure to report a voluntary activity. In the event that the Court chooses to implement mandatory pro bono reporting, we believe that there should not be a sanction. We believe that the administrative burdens of creating a system of sanctions outweigh any potential benefit to having a sanction.

The Knoxville Bar Association further opposes the creation of a separate access to justice fund for the following reasons:

1. There is a significant likelihood that payments to the fund would adversely impact contributions to Legal Services and other existing programs. Many of the members of the bar are involved in fundraising activity, and there is a real concern that lawyers will consider that they have already donated at the time of registration.

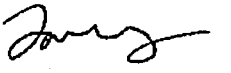
2. There is a concern about the non-LSC entities that the Commission proposes to fund. A review of the web sites of the entities reveals that while the organizations have admirable goals, many Tennessee lawyers might object to funding such activities as civil disobedience training offered by one of the entities to be funded.

3. We believe that there will be significant administrative costs associated with creating and administering a new fund.

In the event that the Court does create an access to justice fund, the Knoxville Bar Association would advocate an "opt in" mechanism and would suggest that only Legal Services Corporation funded entities be the recipients of funding.

Respectfully submitted this 30th day of January, 2015.

KNOXVILLE BAR ASSOCATION



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IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

IN RE: PETITION TO AMEND RULE 9, SECTION 10.10 and 10.2, RULES OF THE TENNESSEE SUPREME COURT

No. ADM2014-02187 – Filed: December 2, 2014

RESPONSE TO INVITATION FOR PUBLIC COMMENT

In response to the Tennessee Supreme Court's request for comment on the proposed change to Rule 9, Sections 10.10 and 10.2 of the Tennessee Rules of the Supreme Court, the Executive Committee of the Tennessee District Public Defenders Conference ("Committee") wishes to express its concern over the potential negative consequences of adopting the changes proposed by the Access to Justice Commission ("Commission") in its petition, and the Court's subsequent order.

I. PRO BONO REPORTING REQUIREMENT SUBJECTS ATTORNEYS TO POTENTIAL ADMINISTRATIVE SANCTIONS, ALTHOUGH PRO BONO WORK IS NOT CURRENTLY MANDATED BY THE COURT

The Committee feels strongly that the reporting requirement proposed by the Commission is not an appropriate way to achieve its stated goals. The Commission argues mandatory reporting is not a step toward mandatory pro bono participation. However, the Court's imposition of an administrative sanction for failure to report "voluntary" work may be interpreted as an endorsement of mandatory pro bono work.

By imposing a sanction for failure to report, the Court indirectly mandates attorneys participate in pro bono work. It is likely that most attorneys will be uncomfortable reporting that they have not completed pro bono work in a given year. This may have the unintended consequence of inflating

pro bono hours or attorneys believing they have to complete pro bono work even though it is not mandated.

Further, while this Commission is steadfastly against a mandatory pro bono environment, there is no guarantee a future Commission or Court will not implement it. In addition, should other entities outside the Judicial Branch feel inclined to impose requirements on attorneys in the future, this proposal makes it easier for those outside entities to justify some form of mandatory pro bono work, or pro bono fee.

II. THE DONATION "OPT-OUT" FEATURE IS UNNECESSARY FOR THOSE WHO WISH TO DONATE, AND GIVES THE PERCEPTION OF A REQUIREMENT THAT DOES NOT EXIST

Similarly, the Commission's recommendation to make a donation appear mandatory unless one "opts out" is not reasonable and may lead an attorney to mistakenly believe the donation is a requirement for licensure in Tennessee. This potential "required donation" is further reinforced by a proposed form that automatically includes the $50 donation in the total due. This may be perceived as an attempt to "strong-arm" donations out of those who feel uncomfortable officially declaring their intention to not contribute, or those who simply pay the total due without reading the fine print.

III. MANDATORY FEES OPEN ATTORNEYS TO FINANCING OF LEGAL AID IN THE STATE

In the most recent sessions of the Tennessee Legislature there has been a concerted effort to eliminate or defund the Indigent Defense Fund. By suggesting that attorneys could pick up the funding deficiencies in the legal aid community if they are strongly encouraged to donate, the

Commission offers the Legislature a new opportunity to impose the bulk of the expense of indigent legal representation on Tennessee attorneys.

By suggesting attorneys, through donations, can ease the burden on entities providing free legal service to indigent citizens, the Court promotes a standard that attorneys can pick up the expense of legal aid for indigent citizens in the state. A move by the Court toward an "opt-out" donation makes it easier for those opposed to the Indigent Defense Fund to pass the costs of legal aid onto attorneys in the state.

The assumption of the Commission's report is that such a "donation", or pro bono work itself, is never to become a requirement in Tennessee. However, the Commission cannot predict the future political environment in this state and the pressures that may come from future Legislatures. By opening the door to transferring the burden of funding representation of indigent citizens to the attorneys in Tennessee, the Commission removes barriers that future Legislatures or Courts would have to overcome to enact mandatory fees or pro bono work in Tennessee.

IV. THE COMMISSION CHOOSES WHICH LEGAL ENTITY RECEIVES ONE'S DONATION, AND NOT THE PARTY WHO IS MAKING THE DONATION

The Committee whole-heartedly supports the *donation* of funds to legal aid entities. However, the Committee believes the donor should have the right to choose to whom a voluntary donation is provided. Any such donation should not be left to a third party to intervene in the process. While the Committee is not opposed to a list of suggested donees, it believes the option of who receives a donation should be left to the donor, not the Commission or some other entity.

V. THE PROPOSAL MAKES NO DISTINCTION BETWEEN THOSE WHO CHOOSE TO NOT COMPLETE PRO BONO WORK AND THOSE WHO ARE PROHIBITED FROM PARTICIPATING IN PRO BONO SERVICES

Many attorneys in Tennessee are not permitted to perform pro bono work due to the nature of their employment. By requiring these attorneys to report zero hours unnecessarily, the reporting mandate of the petition may actually impact the statistical data negatively by overloading the underlying data with an abundance of attorneys who are not permitted to perform pro bono work. As a result, parties reviewing the compiled data in the future may believe the percentage of Tennessee attorneys who perform pro bono work is smaller than it is.

VI. INCONSISTENCIES IN THE MARYLAND REPORT

The Committee would also to like dispute the Commission's interpretation of the Maryland Report. There is no direct correlation between the increased pro bono hours (17%) or the amount of donations to legal aid (89%) cited in the Maryland Report and the mandatory reporting, or donation, claimed by the Commission.

The Commission cannot discount the increase in the total number of attorneys in Maryland over the same time period (22%) as a factor in the total number of pro bono hours worked by attorneys in the state.[1] It would seem apparent that if the number of attorneys increased in a state by 22% that the number of pro bono hours reported in a state would increase by a similar percentage (16.74%).[2]

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[1] Exhibit B of the Commission's report, Maryland Access to Justice Commission and the Court of Appeals Standing Committee on Pro Bono Legal Service, *Longitudinal Analysis of Pro Bono Reporting: 2002-2012*, April 2014, p.4.
[2] Exhibit B of the Commission's report, Maryland Access to Justice Commission and the Court of Appeals Standing Committee on Pro Bono Legal Service, *Longitudinal Analysis of Pro Bono Reporting: 2002-2012*, April 2014, p. 16.

Since Maryland's adoption of the rule requiring mandatory reporting, the percentage of Maryland attorneys doing pro bono work has actually decreased by 6.49% in Maryland.[3]

There is also no direct claim made in the Maryland report that any "opt-out" feature pertaining to legal aid donations was a contributor to the increase in total donations over the same time period. In Maryland, any contribution to legal aid services is probably a result of Maryland's rule permitting attorneys to contribute to legal aid services in lieu of completing pro bono hours, not a donation in addition to pro bono work. It appears Maryland attorneys have simply chosen to donate *instead of* completing pro bono work.[4]

While there are a handful of states that require pro bono service[5], and another small percentage who have an optional reporting[6] program, the majority of states (58%) do not require any reporting of pro bono hours.[7]

VII. CONCLUSION

In conclusion, the Executive Committee of the Tennessee District Public Defenders Conference expresses its concerns with the proposed changes to Rule 9, Section 10.10 and 10.2 of the Supreme Court Rules as put forth in Order ADM2014-02187. The Executive Committee believes that the implementation of the proposal will lead to unintended consequences that will negatively impact the funds available to indigent defendants. Further, the proposal would probably skew the data

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[3] Exhibit B of the Commission's report, Maryland Access to Justice Commission and the Court of Appeals Standing Committee on Pro Bono Legal Service, *Longitudinal Analysis of Pro Bono Reporting: 2002-2012*, April 2014, p.13.
[4] Exhibit B of the Commission's report, Maryland Access to Justice Commission and the Court of Appeals Standing Committee on Pro Bono Legal Service, *Longitudinal Analysis of Pro Bono Reporting: 2002-2012*, April 2014, p. 23-24.
[5] Florida, Hawaii, Illinois, Indiana, Maryland, Mississippi, Nevada, and New Mexico
[6] Arizona, Connecticut, Georgia, Kentucky, Louisiana, Michigan, Montana, Ohio, Oregon, Tennessee, Texas, Virginia, Washington
[7] American Bar Association, *Standing Committee on Pro Bono and Public Service and the Center for Pro Bono*, (updated 12/23/2014), http://apps.americanbar.org/legalservices/probono/reporting/pbreporting.html#noreport.

regarding the percentage of attorneys performing pro bono work, and thus would make it appear as though the State is not the leader it is in providing access to legal aid for indigent Tennessee citizens.

Therefore, the Committee respectfully requests that the Tennessee Supreme Court deny the changes proposed by the Access to Justice Commission in its petition to the Court.

Respectfully submitted,

Executive Committee of the Tennessee District Public Defenders Conference

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IN THE SUPREME COURT OF TENNESSEE,
AT NASHVILLE

FILED
2014 DEC 11 PM 2:08
APPELLATE COURT CLERK
NASHVILLE

IN RE: RESPONSE IN OPPOSITION TO PETITION TO AMEND SUPREME COURT RULE 9, SECTIONS 10.10 AND 10.2	))))	NO. ADM2014-02187

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.

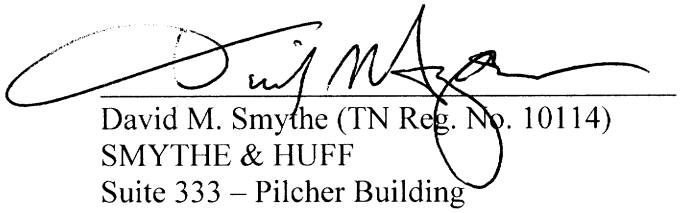
As a trial attorney in this state, both in Nashville, and earlier in my career in Knoxville, I have learned that the people of the great state of Tennessee, including its attorneys and judges, are by in large good and decent people and that they are emblematic of the state's nickname -- Volunteers. Of 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 <u>required</u> 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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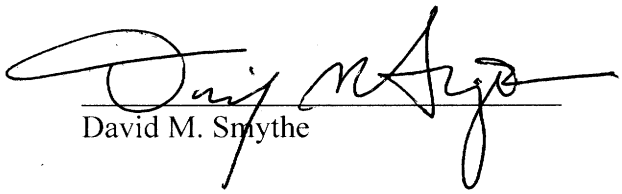
CERTIFICATE OF SERVICE

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 11th day of December, 2014.



David M. Smythe

FILED
JAN - 7 2015
Clerk of the Courts
Rec'd By _____

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

IN RE: RULE 9, SECTION 10.10 AND SECTION 10.2

No. ADM 2014-02187

COMMENT OF THE BOARD OF PROFESSIONAL RESPONSIBILITY TO PETITION TO AMEND TENN. SUP. CT. RULE 9, SECTION 10.10 AND SECTION 10.2

Comes now the Board of Professional Responsibility (the Board), pursuant to Order filed December 2, 2014, and submits the following comment to Petition to amend Tenn. Sup. Ct. R. 9, Sections 10.10 and 10.2.

1. The Board supports the Commission's efforts to raise funds for access to justice programs as provided for in proposed Tenn. Sup. Ct. R. 9 § 10.2(d), however, any initiative must include an analysis of the costs and resources needed to implement it, while recognizing that Board staff and resources will be used to process these contributions.

2. Proposed Tenn. Sup. Ct. R. 9 § 10.10(a) mandates pro bono reporting for every attorney. If every attorney is required to file a pro bono reporting statement, then proposed Section 10.10 should provide for a sanction for an attorney's failure to report. While the Commission's Petition recommends the Court treat noncompliance similar to the way IOLTA noncompliance is handled, the proposed rule does not reflect any administrative sanction for noncompliance with pro bono reporting. If pro bono reporting is mandatory, then the proposed rule should include an administrative sanction such as those provided in Tenn. Sup. Ct. R. 9 § 10.5 and 10.6 or Tenn. Sup. Ct. R. 43 § 15.

3. Regarding Exhibit C, the Commission's proposed registration statement is four pages in length as compared to the Board's current three-page registration statement. This added page to the Board's registration statement would add costs of more than $5,000 for postage.

4. The Commission's proposed registration statement reflects "20XX fee: $220." Tenn. Sup. Ct. R. 9 § 10.2(c) provides the annual fee for each attorney is $170.

5. The Board's existing software can only accommodate predetermined fees in specific rounded dollar amounts rather than "free-form" dollar amounts. The estimated cost to accept and process the proposed open-ended donations is significant. The Board's information technology consultants advise that an analysis and design would have to first be created before providing an estimated cost of the project. Additionally, the consultants believe it is likely to be more economical to replace the entire system instead of revising the current software should the Court approve the open-ended donations.

6. Alternatively, without substantially modifying the Board's software, the Board could accept or process access to justice contributions in predetermined specific amounts such as $50, $75, $100, $25 or $0. The estimated cost for revising the Board's software to accommodate these restricted contribution amounts totals $9,500 +/- 25%.

Accordingly, the Board respectfully proposes the registration statement be modified as discussed and as reflected in Attachment A.

RESPECTFULLY SUBMITTED,

Michael King By SG w/ permission

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Certificate of Service

I certify that the foregoing has been mailed to Allan F. Ramsaur, Esq., Executive Director, Tennessee Bar Association, 221 4th Avenue North, Suite 400, Nashville, Tennessee by U.S. mail, on this the 7 day of January, 2015.

By: Michael King By SG with permission
MICHAEL U. KING (#020830)
Chairman of the Board

By: Sandy Garrett
SANDY L. GARRETT (#013863)
Chief Disciplinary Counsel

BOARD OF PROFESSIONAL RESPONSIBILITY of the SUPREME COURT OF TENNESSEE
10 Cadillac Drive, Suite 220, Brentwood, TN 37027, (615) 361-7500

2015 ANNUAL REGISTRATION STATEMENT

This Annual Statement has been issued pursuant to Supreme Court Rules 9, 25 and 43.

To complete your Annual Registration online, go to www.tbpr.org to log into the Attorney Portal; complete the online forms and pay the annual fee using a MasterCard or Visa. If not registering online, please complete ALL pages of this statement and return it with your payment to the address above.

BPR cards are issued every two weeks. Your BPR card will be mailed to you after receipt of your 2015 completed Annual Registration Statement and payment (either hard copy or online version).

Name: _____ **BPR No.:** _____

Annual Fee: $170.00 **Due Date:** January 1, 2015

Access to Justice Donation: ☐ $50.00 ☐ $75.00 ☐ $100.00 ☐ $25.00 ☐ $0

Total amount enclosed: _____ (Make checks payable to: "Board of Professional Responsibility")

Please update your contact information pursuant to Tenn. Sup. Ct. R. 9, Sec. 10.1:
(Office address information will be displayed on the Board's website.)

New Office address: _____

_____

_____

_____

Telephone: _(_____)_____ Fax #: _(_____)_____

Business email address: _____

New Home address: _____

_____

_____

_____

Telephone: _ (_____)_____ Mobile #: _(_____)_____

Home email address: _____

Preferred Mailing Address: ☐ Office ☐ Home

I certify that the information provided in this Registration Statement is accurate and complete.

_____ (Signature) _____ (Date)

{Attorney Name}
{Organization Name}
{Address}
{City, State, Zip}

Attachment A

To avoid penalties and possible suspension, ALL lawyers with a Tennessee license MUST complete and submit this information either using this paper form OR on the Attorney Portal.

2015 ANNUAL REGISTRATION

NAME: BPR No.:

FIRM/ORGANIZATION NAME: _____

MANDATORY STATEMENT
IOLTA Compliance Reporting
(TENN. SUP. CT. RULE 43, SECTION 14; and RPC 1.15)

☐ 1. **I/my firm hold(s) in an IOLTA account(s) pooled client or third party funds nominal in amount or expected to be held a short period of time, that cannot be made productive for the client or third party. (If your office is not in Tennessee, do not report out-of-state accounts; see 2D.)**

List all IOLTA Accounts: (Enclose a separate sheet for more accounts.)

Financial Institution	Account Name	Account Number

2. **If you are claiming an exemption, check ONE box only (mark the box that best fits).**

☐ **A**. I/my firm hold(s) no funds that are required to be deposited in an IOLTA account.

☐ **B.** I am not engaged in the private practice of law in any jurisdiction.

☐ **C**. Occupation: I am not engaged in the private practice of law. I serve in the following capacity:

_____ Judge _____ Attorney General _____ Public Defender

_____U.S. Attorney _____District Attorney _____In-house counsel _____Teacher of Law

_____On full-time active duty in the armed forces

_____Employed by state, local, or federal government in a capacity not listed above

☐ **D**. I do not have an office in Tennessee **(Note: For the purposes of this Rule, a lawyer who practices as a principal, employee, of counsel, or in any other capacity with a firm that has an office in TN, shall be deemed to have an office in TN if the lawyer utilizes one or more offices of the firm located in TN more than the lawyer utilizes one or more offices of the firm located in any other single state.)**

☐ **E.** Non-Earning Account(s) - Bank records must demonstrate that the account(s) did not accrue interest or dividends in excess of reasonable bank fees. (Enclose an explanation on a separate sheet.)

☐ **F.** Location Proximity - I am exempt because no eligible financial institution is located within reasonable proximity of my office. (Enclose an explanation on a separate sheet.)

For additional information regarding mandatory IOLTA compliance, see www.tnbarfoundation.org

2015 ANNUAL REGISTRATION

NAME: BPR No.:

Pro Bono Reporting (Tenn. Sup. Ct. Rule 9, Section 10.10):

Many attorneys freely give their time and talents to improve our profession, our system of justice, and our communities. Gathering information about volunteer work done by attorneys is essential to efforts to obtain and maintain funding for civil and criminal legal services for the indigent and for promoting the image of the legal profession. ~~The Supreme Court of Tennessee requests that you estimate and voluntarily~~ Please report the extent of your pro bono activities in the preceding calendar year. For further description of the categories described below, *see* Tenn. Sup. Ct. R. 8, RPC 6.1.

(1) I estimate that I worked the following hours in 2014:

_____ Hours Providing Legal Services to Persons of Limited Means Without a Fee or at a Substantially Reduced Fee;

_____ Hours Providing Legal Services to Non-Profit Organizations Serving Persons of Limited Means Without a Fee;

_____ Hours Providing Legal Services to Groups and Organizations at a Reduced Fee when Payment of Standard Fees would create a Financial Hardship; and

_____ Hours Providing Legal Services to Improve the Law, the Legal System, or the Legal Profession.

(2) I voluntarily contributed financial support to organizations that provide legal services to persons of limited means:
_____ Yes; (Please do not disclose the amount.)
_____ No.

(3) Pursuant to Tenn. Sup. Ct. R.9, Section 10.10, this reported information remains confidential unless you waive it solely for purposes of public pro bono recognition by the Supreme Court.

☐ *I would like to have my reported pro bono hours submitted to the Supreme Court solely for the purpose of pro bono award recognition.*

Optional Access To Justice Donation:*

There exists a growing legal needs gap in Tennessee. Indigent and working-poor families face more legal problems caused by unemployment, predatory loans, uninsured medical bills, domestic violence, evictions and foreclosures. In response to this growing need, the Tennessee Supreme Court has declared access to justice for all Tennesseans its number one strategic priority. As a part of the Court's Access To Justice Initiative, all Tennessee attorneys are asked to give a voluntary contribution which will be used to fund direct legal service providers across the state. This donation will help to provide access to justice for the over 1 million low-income Tennesseans who have civil legal problems.

A suggested voluntary donation of $50.00 is requested. If you wish to give a larger donation, mark the $75 and/or $100 donated amounts on Page One of this statement. If you wish to give a smaller donation, mark the $25 amount. If you prefer not to donate, please indicate accordingly.

*This donation may be tax-deductible. Consult a tax expert.