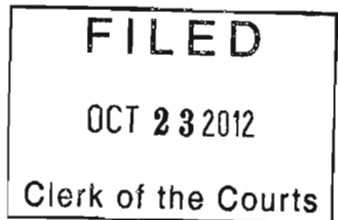


IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

IN RE: RULE 13, SECTION 2(g),
RULES OF THE TENNESSEE SUPREME COURT



No. M2012-02235-SC-RL2-RL - Filed: October 23, 2012

ORDER

Tenn. Sup. Ct. R. 13 establishes a system of providing indigent defense services to parties constitutionally and statutorily entitled to counsel, as well as the procedures for compensating attorneys and others providing those services. It has come the Court's attention that Rule 13 contains no limitation on the number of hours an attorney can bill for services provided to clients. The Court is aware of payments to individual attorneys for work exceeding 3,500 billed hours in a year, as well as numerous other payments in amounts that far exceed a traditional year's work. For example, the weighted caseload studies conducted for District Attorneys General, District Public Defenders, and state Trial Court Judges all established 1,650 hours as the amount of time realistically available to each of these members of the judicial system in a given year. That figure takes into account that, during the standard work year (40 hours per week x 52 weeks = 2,080 hours), lawyers and judges will have to devote some time to other activities not directly related to work on particular cases. In addition, time not billed by a lawyer as a result of illness, vacation, administrative duties, and continuing legal education is inevitable. The result is the reality that hours billed in excess of these norms threaten the adequacy of representation provided to indigent clients due to excessive caseloads. It can also call into question the reasonableness of the claims.

To address these concerns, the Court is considering the adoption of an annual cap on total hours that an attorney may bill for indigent services. Several states and local indigent systems have adopted similar limits. Accordingly, the Court proposes, effective January 1, 2013, an annual limit of 2,000 hours per year for which an attorney may receive payment pursuant to Rule 13, and hereby publishes a proposed amendment and solicits written comments concerning the amendment from the bench, the bar, interested organizations, and the public. The proposed amendment to Tenn. Sup. Ct. R. 13, Section 2 is set out in the Appendix to this order. Written comments concerning the proposed amendment shall be received by the Clerk on or before Friday, December 14, 2012. Comments should be addressed to:

Michael W. Catalano, Clerk
Re: Tenn. Sup. Ct. R. 13, § 2(g)
100 Supreme Court Building
401 Seventh Avenue North
Nashville, TN 37219-1407

and should reference the docket number set out above.

The Clerk shall provide a copy of this order to LexisNexis and to Thomson Reuters. In addition, this order shall be posted on the Tennessee Supreme Court's website.

IT IS SO ORDERED.

PER CURIAM

APPENDIX

The proposed amendment would add the following new subsection (g) to Tenn. Sup. Ct. R. 13, Section 2, including the temporary transitional provision set out in the second paragraph of (g):

(g) Counsel appointed or assigned to represent indigents shall not be paid for any time billed in excess of 2,000 hours per calendar year. It is the responsibility of private counsel to manage their billable hours in compliance with the annual maximum.

[The following provision is transitional and would be repealed effective December 31, 2013]: An attorney who has an existing caseload on the effective date of the adoption of this subsection (g) shall take the annual hourly limit into consideration prior to accepting new appointments. An attorney who exceeds the annual hourly limit in 2013 due at least in part to hours billed in cases to which the attorney had been appointed prior to the adoption of this new subsection may request a waiver of this limitation for 2013. Any such request shall be submitted to the Director in writing and shall include details regarding the attorney's good faith efforts to comply with the rule.