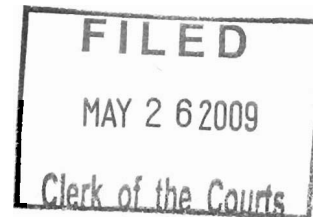


IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE



**IN RE: PROPOSED AMENDMENT TO RULE 5,
RULES OF THE SUPREME COURT OF TENNESSEE**

ORDER

The Court, in order to advance its strategic priority of Access to Justice, proposed to amend Tenn. Sup. Ct. R. 5 to allow licensed attorneys employed as research assistants in the Tennessee appellate courts to provide certain pro bono legal services. The amended rule also would allow such attorneys, in certain circumstances, to act pro se and to perform routine legal work incident to the management of their personal affairs or the personal affairs of their family members. The Court published the proposed amendment of Rule 5 and solicited written comments from the bench, the bar, and the public. The deadline for submitting written comments expired on April 6, 2009.

Upon due consideration, the Court hereby amends Tenn. Sup. Ct. R. 5 by deleting the existing Rule 5 in its entirety and replacing it with the new Rule 5 set out in the attached Appendix to this order. This amendment shall take effect on the filing date of this order.

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

It is so ORDERED.

FOR THE COURT:


JANICE M. HOLDER, CHIEF JUSTICE

APPENDIX

AMENDED TENN. SUP. CT. R. 5

Rule 5. Research assistants. — The employment of research assistants (law clerks) for the members of the appellate judiciary is governed by Tenn. Code Ann. § 8-23-108 and § 8-23-109. The employment of research assistants also is governed by Tenn. Code Ann. § 16-3-804(b).

Additional qualifications and/or conditions of employment are as follows:

(a) Research assistants shall devote their full time, during regular working hours, to the performance of the official duties assigned to them by the judge or justice whom they serve.

(b) Research assistants shall not engage in the practice of law during the term of their employment, except as provided in paragraph (c). The term “practice of law” shall mean those services listed in Tenn. Sup. Ct. R. 9, § 20.2, provided, however, for the limited purpose of this rule, the term shall not include service as a research assistant.

(c) Notwithstanding the provisions of paragraph (b), a research assistant (“assistant”) may act pro se, may perform routine legal work incident to the management of the personal affairs of the assistant or a member of the assistant’s family, and may provide pro bono legal services in civil matters, so long as such pro se, family, or pro bono legal work does not present an appearance of impropriety, does not take place while on duty or in the assistant’s workplace, and does not interfere with the assistant’s primary responsibility to the judge or justice whom the assistant serves, and further provided that:

(1) in the case of pro se legal work, such work is done without compensation (other than such compensation as may be allowed by statute or court rule in probate proceedings);

(2) in the case of family legal work, such work is done without compensation (other than such compensation as may be allowed by statute or court rule in probate proceedings) and does not involve the entry of an appearance in any court;

(3) in the case of pro bono legal services, such work: (i) is done without compensation; (ii) does not involve the entry of an appearance in any court; (iii) does not involve a matter of public controversy, an issue likely to come before the assistant’s court, or litigation against federal, state or local government; and (iv) the proposed services are reviewed in advance with the appointing authority to determine whether the proposed services are consistent with the foregoing standards.

(d) Senior law students (those in their final year of law school) may be employed upon a part-time basis, with a commensurate apportionment of compensation.

(e) All full-time research assistants, as a condition of their entry upon their duties, will file with the Administrative Office of the Courts a certificate in the following form:

CERTIFICATE

I, _____, Research Assistant to Justice/Judge _____, certify:

- a. that I have read and fully understand Rule 5 of the Tennessee Supreme Court;
- b. that I will devote my full time, during regular working hours, to the performance of my official duties as Research Assistant;
- c. that I will not engage in the practice of law during the term of my employment, except as permitted under Rule 5.

This is the _____ day of _____, 20__.

[Signature]

(f) For the purposes of paragraphs (a) - (c) of this rule, the term “research assistant” shall include any staff attorney employed by an appellate court.