# IN THE SUPREME COURT OF TENNESSEE
# AT NASHVILLE

## IN RE: PUBLIC COMMENTS ON POTENTIAL REGULATORY REFORMS TO INCREASE ACCESS TO QUALITY LEGAL REPRESENTATION

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**No.ADM 2025-0143**

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## COMMENT OF THE TENNESSEE ACCESS TO JUSTICE COMMISSION TO POTENTIAL REGULARTORY REFORMS TO INCREASE ACCESS TO QUALITY LEGAL REPRESENTATION

The Tennessee Access To Justice Commission (the Commission), pursuant to Supreme Court order filed September 16, 2025, respectfully submits the following Comment to potential regulatory reforms to increase access to quality legal representations.

**Executive Summary**

Tennessee faces a significant and well-documented access-to-justice gap, with the vast majority of low- and moderate-income residents experiencing civil legal issues without obtaining legal assistance. The 2025 Civil Legal Needs Assessment conducted by The Tennessee Alliance for Legal Services confirms that cost, lack of awareness, and structural barriers—including rural attorney shortages and limited access to technology—prevent many Tennesseans from securing help with critical matters such as housing, family law, and healthcare-related debt. At the same time, the Tennessee Supreme Court has called for public input on regulatory reforms, and the Tennessee Access to Justice Commission has undertaken a comprehensive review of national models, stakeholder perspectives, and its own decades of experience to identify reforms most likely to produce meaningful, measurable improvements in access to justice.

Based on that review, the Commission recommends four priority areas for focused study and potential implementation: (1) piloting non-lawyer assistance programs in high-need practice areas; (2) developing alternative pathways to licensure that incentivize service in rural and public interest settings; (3) refining court rules to better support self-represented litigants and expand pro bono participation; and (4) investing in plain-language forms, self-help resources, and responsibly designed AI tools to improve access to legal information. The Commission further recommends that the Court convene dedicated task forces to develop detailed proposals for each area. These

targeted, data-driven reforms offer a practical path forward—one that expands access to legal services while preserving the competence, integrity, and public trust essential to Tennessee's justice system.

**Introduction**

Tennesseans throughout the state cannot afford lawyers to represent them when they face a range of civil legal issues from fighting evictions to creating basic wills. The findings of the 2025 Civil Legal Needs Assessment conducted by the Tennessee Alliance for Legal Services offer helpful insights into this systemic problem.[1] Through surveys of 1,003 households and 165 legal, judicial, and community stakeholders across all 95 counties, the assessment found that 78% of respondents experienced at least one civil legal problem in the past year, yet fewer than one in four sought legal help, largely due to cost, lack of awareness, and access barriers.[2] The report identified the most common legal needs in areas that the Commission's work has examined: healthcare and medical debt (36.5%), family law issues including domestic violence and custody (30.2%), and housing instability such as eviction and landlord disputes (24.1%).[3] The assessment also identified significant disparities affecting rural residents, people with disabilities, seniors, immigrants, and households earning under $40,000 annually.[4] The gap is exacerbated by additional persistent barriers like limited internet access, language access challenges, and staffing shortages among legal aid providers.[5]

These findings make clear that the access-to-justice crisis in Tennessee is not theoretical. It is felt daily by real Tennesseans navigating serious legal problems without help. Recognizing the urgency of this challenge, the Tennessee Supreme Court issued an Order in September 2025 soliciting public comment on potential regulatory reforms to address it, and specifically called upon the Tennessee Access to Justice Commission to respond.[6] The order highlighted the "significant access-to-justice" gap in Tennessee, noting the tremendous work of civil legal services organizations assisting those at or near the poverty line.[7] Further, the Court discussed the growth of rural legal deserts. Some estimate that "as of 2020, Tennessee had twenty counties with fewer

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[1] Tennessee Civil Legal Needs Assessment 2025, Tennessee Alliance for Legal Services at https://las.org/wp-content/uploads/2026/02/TALS-TN_Civil_Legal_Needs_Assessment_2025.pdf.

[2] *Id.* at 9-11.

[3] *Id.* at 3.

[4] *Id.*

[5] *Id.* at 23.

[6] Tennessee Supreme Court Order, In re: Public Comments on Potential Regulatory reforms (filed September 16, 2025 at https://tncourts.gov/sites/default/files/ProposedRulesPdf/ORDER%20SOLICITING%20PUBLIC%20COMMENTS%20ON%20POTENTIAL%20REGULATORY%20REFORMS%20TO%20INCREASE%20ACCESS%20TO%20QUALITY%20LEGAL%20REPRESENTATION.pdf

[7] *Id.*

than ten lawyers."[8] As a recent article in the Tennessee Bar Journal explained, rural residents are "rapidly losing access to lawyers which means losing access to justice."[9]

The Tennessee Access to Justice Commission and the Court have a shared commitment to ensuring meaningful access to justice for all Tennesseans. Building on more than twenty-five years of service supporting the Court, the Commission has worked to identify and address systemic barriers that contribute to the access-to-justice gap. The Commissioners have been tasked with developing strategic plans, identifying priorities, and recommending programs to improve access to justice across the state.[10] The Commission has provided collaborative leadership by working with courts, legal aid organizations, bar associations, and community partners to expand pro bono participation, develop self-help resources, revise court rules, and address systemic barriers to legal services. It is from this foundation of experience and commitment that the Commission undertook its response to the Court's Order.

To prepare this Comment, the Commission approached the Court's request with deliberate care and thoroughness. The Commission reviewed the CLEAR Report[11] in its entirety, sponsored a series of lunch-and-learn sessions with access-to-justice scholars and practitioners from states that have implemented innovative reform efforts, and established a dedicated subcommittee comprised of five Commissioners who conducted independent research on each of the regulatory reform topics identified in the Court's Order.

Building on this work and the Commission's more than twenty-five years of experience addressing access-to-justice issues in Tennessee, the Commission carefully reviewed all seven questions presented by the Court. The Commission evaluated each question through a single, consistent lens: which reforms would have the most meaningful and demonstrable impact on closing Tennessee's access-to-justice gap while preserving the competence, integrity, and public trust that define the legal profession.

That review led the Commission to identify four priority recommendations. Two of these recommendations, non-lawyer assistance programs and alternative pathways to licensure, respond directly to specific questions raised in the Court's Order. Two additional recommendations, concerning reform of court rules affecting self-represented litigants and the development of self-help tools and AI-assisted resources, emerged from the Commission's own research and discussions. The evidence supporting these two additional reforms was sufficiently compelling

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[8] ABA, Profile on the Legal Profession (2020) at https://www.americanbar.org/content/dam/aba/administrative/news/2020/07/potlp2020.pdf.

[9] *Id.*

[10] https://tncourts.gov/courts/supreme-court/rules/supreme-court-rules/rule-50-tennessee-access-justice-commission.

[11] Committee on Legal Education and Admissions Reform (CLEAR) Report and Recommendations 10 (July 27, 2025), https://perma.cc/SW8E-FTX4.

that the Commission felt obligated to include them in this Comment, even though they were not specifically enumerated in the Order.

The Commission's four recommendations are:

1. Examine mechanisms for non-lawyer assistance and create a pilot project targeting specific legal practice areas where data demonstrates that low-income Tennesseans cannot obtain affordable, quality legal representation. (Addressing Item No. 6 in the Order.)
2. Study and develop alternative pathways to licensure, including curricular, post-graduation, and hybrid approaches, designed to incentivize lawyers and law students to serve in the public interest and in rural legal deserts. (Addressing Item Nos. 3, 4, and 5 in the Order.)
3. Review and refine Tennessee Supreme Court rules to further improve access to justice for self-represented litigants, including rules affecting limited-scope representation, pro bono service, and court navigation. (Identified through Commission research as a high-impact ATJ priority.)
4. Galvanize legal experts to develop statewide plain-language forms, stronger self-help resources, and responsible generative AI tools to expand access to legal information for self-represented litigants. (Identified through Commission research as a high-impact ATJ priority.)

The Commission also reviewed the remaining questions in the Court's Order, specifically those concerning ABA accreditation and non-lawyer ownership of law firms and addresses them in a separate section of this Comment. After careful consideration, the Commission does not find that either of these reforms would meaningfully promote access to justice for Tennesseans and therefore does not recommend them for the Court's priority consideration.

The Commission recognizes that each of the four priority recommendations involves reforms of significant complexity. Given the timeframe for this Comment, it was not possible for the Commission to fully develop implementation frameworks, cost structures, oversight mechanisms, or operational details for any of these reforms. Each recommendation will require substantial further study by subject-matter experts and dedicated stakeholders before it can be responsibly implemented.

Accordingly, the Commission's overarching recommendation to the Court is this: designate each of the four priority areas for focused study by a separately convened task force. Each task force should include subject-matter experts, members of the Commission, representatives of legal aid organizations, members of the bar, and other relevant stakeholders. These task forces would be charged with developing concrete implementation proposals, including governance structures, funding requirements, oversight mechanisms, and evaluation metrics, for the Court's subsequent consideration.

**Regulatory Reform Recommendations**

This Comment is intended to provide the Court with a substantive foundation for that work. It offers an honest assessment of the access-to-justice landscape in Tennessee, a survey of meaningful reform efforts underway in other states, and a clear identification of the areas where targeted action is most likely to produce results for the Tennesseans who need it most.

1. **The Court should examine mechanisms for non-lawyer assistance and create a pilot project targeting specific legal practice areas where data demonstrates that low-income Tennesseans cannot obtain affordable, quality legal representation. (Addressing Item No. 6 in the Order.)**

The Court identified in its Order that "there is a growing recognition that the current supply of legal services in the United States is insufficient to meet the needs of many Americans."[12] The Court also noted that "there is a growing concern regarding the lack of access to legal services in rural areas."[13] To address supply-side concerns about civil legal services, more than 25 states are exploring, implementing, or administering at least one regulatory reform initiative that authorizes nonlawyers to provide legal information or practice law in limited settings.[14]

These efforts are encouraged by the Conference of Chief Justices and Conference of Court Administrators in a resolution titled "In Support of Exploring Access to Justice Through Authorized Justice Practitioner Programs."[15] (Resolution 1-2025). The resolution noted that state supreme courts are responsible for the regulation of legal service providers in their respective jurisdictions, and six states have programs authorizing individuals without law licenses to practice law in limited or community settings. These models range from court navigators who cannot give legal advice to licensed paraprofessionals (LPs) who can provide limited legal services in certain practice areas.

**A. Court Navigators Assisting Pro Se Litigants**

One of the earliest non-lawyer initiatives created "navigators" – trained non-lawyer professionals who assist litigants in navigating court processes, completing forms, and understanding procedural requirements.[16] These programs, implemented in states like New York

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[12] Tennessee Supreme Court Order, In re: Public Comments on Potential Regulatory reforms (filed September 16, 2025.

[13] *Id.*

[14] https://www.americanbar.org/groups/paralegals/blog/how-states-are-using-non-lawyers-to-address-the-access-to-justice-gap/.

[15] https://ccj.ncsc.org/resources-courts/support-exploring-access-justice-through-authorized-justice-practitioner-programs.

[16] Non-Lawyer Navigators in State Courts: Part II – An Update, new energy, urgency and possibilities. By Mary McClymont. https://www.law.georgetown.edu/tech-institute/wp-content/uploads/sites/42/2023/10/Nonlawyer-

and Alaska, typically target high-volume practice areas, like housing and family law, where self-represented litigants are common.[17] Navigators receive short-term, skills-based training that includes instruction on court procedures, ethical boundaries (especially the distinction between legal information and legal advice), and how to fill out legal documents. Navigators can also receive specialized training in subject-matter areas like evictions or consumer debt. Although navigators do not provide legal advice, they can play a critical role in improving court access and efficiency by helping individuals better understand and participate in their cases.[18]

### B. Licensed Paraprofessionals Offering Specialized Legal Services

Several states have created a new tier of paid legal service providers that are not lawyers and refer to this new non-lawyer status by different terms including allied legal professional, legal paraprofessional, qualified paraprofessional, and licensed legal professional.[19] For clarity, this comment refers to these programs collectively as "licensed paraprofessional" programs or LPs. LPs allow non-lawyers to provide limited legal services. States have established different limitations for LPs, and many programs designate specific practice areas for LP certification.

For example, Minnesota's pilot project, launched in 2021, allows licensed paraprofessionals to represent clients in specific types of housing and family matters.[20] They keep track of their work and report it so the state can determine if they are impacting the 95% rate of unrepresented litigants in these cases.[21] Utah's Licensed Paralegal Practitioner (LPP) program established in 2018 allows LPPs to practice in consumer debt, landlord-tenant and family law.[22] Over two years, these LPPs have provided nearly 20,000 services to 10,000 clients with few complaints.[23]

LP programs have credentialing requirements that can include a combination of formal education (like an associate's degree or paralegal certificate), a set number of hours of substantive legal experience under attorney supervision, and passage of a licensing exam. They must also

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Navigators-in-State-Courts-Update.pdf; Non-lawyer navigators in state courts: An emerging consensus, A survey of the national landscape of non-lawyer navigator programs in state courts assisting self-represented litigants. By Mary E. McClymont, the Justice Lab at Georgetown Law Center at https://www.law.georgetown.edu/tech-institute/wp-content/uploads/sites/42/2023/06/Nonlawyer-Navigators-in-State-Courts.pdf. *See also,* https://iaals.du.edu/sites/default/files/documents/publications/landscape_allied_legal_professionals.pdf

[17] *Id.*

[18] *Id.*

[19] https://iaals.du.edu/sites/default/files/documents/publications/landscape_allied_legal_professionals.pdf.

[20] Licensing Legal paraprofessionals, Rhode Center, https://clp.law.stanford.edu/licensing-paraprofessionals/#:~:text=Utah%20–%20licensed%20paralegal%20practitioners%20(LPPs,provincial%20offenses%2C%20and%20administrative%20tribunals.

[21] https://iaals.du.edu/projects/allied-legal-professionals.

[22] *Id.*

[23] *Id.*

complete continuing legal education (CLE) and adhere to professional conduct rules. These programs require dedicated licensing oversight which requires a financial investment from the state.

While states are still evaluating the effectiveness of these programs, early signs suggest that they are especially helpful for litigants of modest means. In Arizona, for example, paraprofessionals charge an average hourly rate of $236 with flat fees ranging from $600 to $3000–rates and fees that may remain out of reach for some low-income individuals and that, in certain markets, approach those of attorneys.[24] However, these programs are generally focused on practice areas where individuals are not retaining counsel and instead proceed pro se, meaning they are expanding access in spaces where legal representation is often absent rather than displacing existing attorney services.

### C. Community Justice Workers Certified under a Lawyer's Practice License.

Community-Based Justice Worker (CJW) programs "involve training and certifying individuals working at community-based organizations to offer legal advice and services in certain case types."[25] This model provides free legal assistance to target low-income individuals who would not be able to afford legal representation. The CJWs might be required to be supervised by an attorney and/or be in partnership with a legal service corporation.[26] As of this month, 14 states have passed or proposed rules authorizing justice worker programs and 20 are considering them.[27] An evaluation of Alaska's program shows that by the end of 2024, "CJWs were serving nearly 4 cases for every one case served as volunteer attorneys."[28] Because they are imbedded in a community-based organization or legal aid organization, these non-lawyers reach populations that may not otherwise seek help from traditional legal institutions.

As one example, the CJW model in Arizona trains nonlawyers from local communities to provide limited legal assistance, especially to people who cannot afford attorneys. Authorized by the Arizona Supreme Court in 2020, the model allows these workers—often embedded in nonprofit organizations, social service agencies, or community groups—to offer practical support such as

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[24] Assessing Arizona's Legal Paraprofessionals: 2024 Program Survey, https://www.azcourts.gov/Portals/0/26/Assessing%20Arizonas%20Legal%20Paraprofessionals_2024%20Survey%20--%20Narrative%20Summary_1.pdf at 15.

[25] The Diverse Landscape of Community-based Justice Workers at https://iaals.du.edu/news/diverse-landscape-community-based-justice-workers . *See also,* https://docs.google.com/spreadsheets/d/1yJIHSRy9k-l8wq8D6QRpqAuuFNLUiyQwpRNv1m9VTSs/edit?gid=262340764#gid=262340764.

[26] Nikole Nelson, Rebecca L. Sandefur & Matthew Burnett, Empowering Justice Through Community Justice Workers, 38 MGMT. INFO. EXCH. J. 29 (2024).

[27] Frontline Justice, https://www.frontlinejustice.org/about.

[28] https://www.americanbarfoundation.org/wp-content/uploads/2025/11/ABF-Alaska-Community-Justice-Brief-FIN.pdf at 2.

explaining legal rights, helping complete forms, and preparing individuals for hearings. They typically focus on high-need areas like housing, public benefits, family law, and domestic violence, and may work under attorney supervision or mentorship. By operating in trusted community settings, CJWs make legal help more accessible and easier to navigate. This model is designed to address the justice gap, where many people face legal problems without adequate assistance due to cost or limited attorney availability. CJWs do not replace lawyers but instead handle routine or high-volume needs through free, limited-scope services, helping to extend the reach of the legal system. Rooted in principles of community engagement, legal empowerment, and scalability, the model builds a larger, more flexible legal workforce while enabling individuals to better understand and advocate for their rights.

LP and CJW models generally require modifications to, or limited exemptions from, unauthorized practice of law rules, which are changes that several states have already implemented. Most programs also limit these roles to specific areas of law and to serving low-income populations, often focusing on high-volume matters where self-representation is common. In addition, both models require meaningful investment to develop and sustain, particularly where paraprofessionals operate under the supervision of, or in partnership with, legal services lawyers.

The Supreme Court could create task force in partnership with the Commission to further study specific state programs, identify the legal practice areas in Tennessee (i.e. consumer debt, evictions, orders of protection) where pro se representation is most prevalent, and develop proposals for a targeted paraprofessional licensing program and/or court access worker initiative in collaboration with legal services or social services organizations. This approach directly connects to our recommendations to examine court rules and develop court-approved forms and procedures to improve access to justice. For example, a targeted paraprofessional program could directly connect to our recommendation to expand a lawyer's ability to provide limited scope representation. The Georgia Supreme Court took a similar approach in August 2024.[29] The Court created a Supreme Court Study Committee on Legal Regulatory Reform "to develop recommendations regarding the regulation of the practice of law to improve civil legal access for Georgians."[30] The goal of the Committee was to "examine existing regulation of the practice of law and determine the viability of modifications to current regulatory practices to allow certain qualified, credentialed and supervised non-attorneys to provide limited legal services directly to low-income Georgians, with a focus on the "narrow areas in which non-lawyers can be trained to assist clients who otherwise could not afford a lawyer or who live in rural areas where lawyers are not available." The committee was chaired by Justice Carla Wong McMillian and vice-chaired by Court of Appeals Presiding Judge Stephen Louis A. Dillard.[31] The structure of the Georgia Committee might be instructive to our Court. For example, the Committee had 13 members, 8 members were appointed by the Chief Justice of the Court, and 5 members were appointed by the President of the State Bar, and the chair could designate and appoint committees as necessary to research and investigate issues to complete their work. Within 10 months, the committee issued a comprehensive report by engaging in

[29] https://www.gasupreme.us/wp-content/uploads/2024/09/In-Re-Supreme-Court-Study-Committee-on-Legal-Regulatory-Reform.pdf.

[30] https://assets.georgiacourts.gov/2/wp-content/uploads/2026/01/22165038/GA-Supreme-Court-Report-on-Legal-Regulatory-Reform_6-30-25.pdf. https://www.gasupreme.us/07-07-2025-supreme-court-study-committee-on-legal-regulatory-reform-submits-report/.

[31] *Id.*

extensive fact-gathering, including an analysis of regulations and programs in other states, and conducting "over 40 stakeholder interviews with members of the legal profession and community-based organizations that serve low-income and rural residents."[32] One of its recommendations was "a phased pilot program that would permit non-attorneys to perform certain limited legal tasks in specific types of cases."[33] The phased pilot approach in three counties aimed "to balance the need to show caution when expanding the practice of law into new areas with the urgent unmet legal needs of low-income and rural Georgians."[34]

Similarly, here, a Tennessee Supreme Court Task Force could be tasked with detailed fact-findings about the potential and challenges for non-lawyer representation in Tennessee and generate a report with recommendations. As demonstrated by Georgia's approach, the Court could pilot one of these models in three to four counties and evaluate its effectiveness over a couple of years before implementing a statewide model.

**2. The Court should study and develop alternative pathways to licensure, including curricular, post-graduation, and hybrid approaches, designed to incentivize lawyers and law students to serve in the public interest and in rural legal deserts. (Addressing Item Nos. 3, 4, and 5 in the Order.)**

In Tennessee, numerous counties have fewer than ten active lawyers, and several have only one to five lawyers serving the entire population. These shortages impede access to our civil justice systems—particularly in rural communities. In response to similar access-to-justice gaps, other states have adopted alternative lawyer licensing pathways that do not rely exclusively on the traditional model of the three-year J.D. and bar examination.

Broadly, these reforms fall into three categories:

- Curricular options where the applicants complete most or all bar requirements while attending law school,
- Post-graduation supervised practice options, and
- Hybrid or a combination of a curricular and post-graduation option.

**A. Curricular Pathways to Bar Licensure**

The curricular based options allow applicants to complete most, if not all, of the admission requirements while in law school. These range from full diploma privilege to requirements that applicants develop a portfolio of work that is evaluated by bar examiners. Curricular based

[32] *Id.*
[33] *Id.*
[34] *Id.*

pathways require close partnership between the law schools in the state and the state bar and have been most successful in states with few law schools.

The University of New Hampshire and the New Hampshire Supreme Court have maintained a highly structured alternative pathway that functions as a competency-based substitute for the bar exam for more than 20 years. To qualify, students must be admitted into the program during law school and complete a specialized, practice-focused curriculum over their final two years. This includes simulated and real legal work, like client counseling, negotiations, drafting, and court appearances—combined with doctrinal coursework. Throughout the program, students are evaluated by judges, practicing attorneys, and members of the New Hampshire Board of Bar Examiners, rather than taking a single written test. Other states are considering adopting similar approaches, including Oregon, Minnesota, Washington, and South Dakota.

The South Dakota alternative pathway is specifically for public interest lawyers and allows them to demonstrate their competence without taking the bar exam. The program is a pilot with up to ten law students who must follow a required curriculum, complete externships with attorney supervision, and commit to working in public interest for at least two years after graduation. In 2025, the South Dakota adopted a five-year pilot program to provide a public service pathway to bar admission.

### B. Supervised-practice Pathways to Bar Licensure

The second alternative pathway involves supervised practice following graduation. These programs generally fall into three categories. The first emerged as a temporary response to the pandemic, and the Commission has not examined this category in detail. The second applies to graduates who did not initially pass the traditional bar examination. The third includes graduates who meet specified program criteria and elect to pursue supervised practice as an alternative path to licensure.

Three states have launched a supervised practice pathway for graduates who failed the traditional bar exam: California, Oregon, and Arizona. All three states require that graduates to pass the MPRE, meet all character and fitness requirements, and satisfy any other conditions for bar admission. The program only substitutes for a passing score on the traditional bar exam.

The Arizona Supreme Court's Arizona Lawyer Apprentice Program (ALAP), launched in 2024 and supported by a grant from the State Justice Institute, is "designed for candidates who narrowly miss Arizona's Uniform Bar Exam (UBE) passing score of 270, recognizing that a single cut score does not perfectly measure attorney competence and future success."[35] If a candidate

[35] https://www.sji.gov/arizona-lawyer-apprentice-program-alap-the-arizona-supreme-court/. For the July 2025 UBE, 16 of 44 eligible candidates (36%) have applied, while for the February 2025 UBE, 20 of 36 eligible

fails by fewer than 9 points, they can be admitted to practice law under the supervision of an experienced Arizona attorney, provided they commit to two years of providing legal services in rural areas or with public law offices statewide and meet all other admission standards. Upon completing the program, the licensee receives a regular license to practice law in Arizona. After one year, ALAP received 70 applications, and to date, there are 40 active licenses.[36]

Oregon has also launched a full-fledged supervised practice program in 2024, called the Supervised Practice Portfolio Examination (SPPE).[37] This pathway to licensure that allows applicants to complete structured supervised legal work after law school and submit a portfolio demonstrating competencies across key practice areas.[38] This model emphasizes real-world client work product and performance evaluation by supervising attorneys as an alternative to taking the bar exam. Minnesota and Washington are currently creating post-graduate alternative pathway to licensure program.[39]

### C. Hybrid Pathways to Bar Licensure

The last alternative pathway is a hybrid or combination to the first two pathways described above. The Utah Supreme Court adopted an Alternate Path to licensure for graduates who have not taken a bar exam in any jurisdiction.[40] It is a combination of experiential education, post-graduate supervised practice, and standardized examination. Nevada is developing an innovative three-part Comprehensive Licensing Examination (the Nevada Plan).[41] The Nevada Plan requires all bar candidates to complete a supervised practice requirement. The Nevada Plan is an example of graduate reform that will apply to all bar candidates.

These reforms collectively demonstrate that state supreme courts can innovate within their licensing authority to assess practice competence while simultaneously advancing public protection and access to justice. They reflect a shift to competency-based licensure options that better align educational experiences with practice demands.

Tennessee should consider adopting an alternative licensure pathway tailored specifically to incentivize public interest work and to serve rural legal deserts. The Supreme Court could devise an implementation committee, like the current one in Minnesota, to study and propose an alternative pathway to licensure. The committee could be tasked with drafting a rule change to

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candidates (56%) have applied. Earlier eligibility periods yielded 19 applications from July 2024 examinees (35%) and 7 applications from July 2023/February 2024 examinees (12%).

[36] *Id.*

[37] https://www.osbar.org/sppe.

[38] https://www.abajournal.com/web/article/oregons-alternative-pathway-to-the-bar-proves-popular.

[39] https://nationaljurist.com/washington-becomes-fourth-state-to-adopt-alternative-pathways-to-practice-law/; https://ble.mn.gov/board/alternative-pathways/

[40] https://www.utahbar.org/wp-content/uploads/2025/08/Frequently-Asked-Questions.pdf

[41] https://nvbar.org/nvplan/

implement the pathway and draft a plan for implementing the pathway. Such a pathway could include:

- Permitting bar admission after 12–18 months of supervised practice in designated rural counties, public defender offices, district attorney offices, or legal aid organizations;
- Allowing law students to complete structured, clinic courses or rigorous externships in underserved counties as part of a curricular licensing option;
- Designing a supervised practice pathway that incentivizes jobs in rural counties and public interest work through mentoring and portfolio evaluation;
- Pairing such pathways with incentives—such as loan repayment support, continuing legal education mentorship credits, or retention bonuses—to encourage sustained service in these communities; and
- Creating a curricular program that shortens the time students are in law school by a semester allowing them to meet admission requirements while in law school, which would make law school cheaper and allow them to begin practicing in a public interest job or rural legal desert sooner.

To illustrate potential impact, if ten law students at each Tennessee law school chose to pursue an alternative pathway focused on rural or public interest service, that could result in fifty new lawyers each year committed to serving legal deserts and public interest organizations. Over time, this cohort could significantly increase legal coverage in underserved regions and make measurable progress toward closing Tennessee's justice gap.

Such reforms would not lower professional standards. Rather, by assessing competence through observed practice and supervised skill development, and by incentivizing service where it is most needed, Tennessee can protect the public, strengthen practice readiness, and take a concrete step toward advancing access to justice for all its residents.

3. **The Court should review and refine Tennessee Supreme Court rules to further improve access to justice for self-represented litigants.** *(Identified through Commission research as a high-impact priority.)*

When studying the issues presented in the Court's Order, the Commission determined that it should also address additional access-to-justice reforms that further the purposes identified by the Court. The Commission has particular expertise in examining court rules and developing court-approved forms and procedures to improve access to justice. Thoughtful revision of court rules can meaningfully improve access to justice in rural areas, across the State, and in the case types where many litigants proceed without counsel.

Based on its experience, the Commission recommends that the Court consider whether targeted rule refinements could further improve access to justice in several areas, including:

- refining the rules governing limited-scope representation so that attorneys may provide appropriate, ethical assistance to self-represented litigants without unnecessary procedural burdens that discourage pro bono participation or limit access to justice;
- allowing attorneys who are licensed in another jurisdiction, but reside or work in Tennessee, to provide qualified pro bono legal services in Tennessee through approved organizations;
- encouraging attorneys and law firms to support supervised paralegal participation in pro bono matters;
- developing or endorsing court rules and procedures that make the courts easier for self-represented litigants to navigate;
- considering whether Tennessee Supreme Court Rule 13 should be amended to allow appointment of counsel in certain civil matters; and
- considering whether Rule 6.1 should be amended to increase the practical impact of pro bono service and financial support for civil legal services.

### A. Limited Scope Representation and Related Rule Review

The Commission recommends that the Court consider whether rules governing limited scope representation could be refined to further support access to justice. Before the 2025 developments concerning Tennessee Rule of Civil Procedure 11.01, the Commission had already undertaken work addressing limited scope representation, also referred to as unbundled legal services,[42] under Tennessee Supreme Court Rule 8. That work was paused after Formal Ethics Opinion 2025-F-172 interpreted Rule 11.01 in a manner that raised substantial concerns for legal services organizations, pro bono programs, and attorneys providing limited assistance to otherwise self-represented litigants. The opinion was later withdrawn, and a separate rule-review process was initiated regarding Rule 11.01.

Even so, the Commission believes the concerns that prompted its earlier Rule 8 work remain important. Rule 11.01 and Rule 8 address related aspects of limited scope representation and may warrant consideration together to ensure that attorneys may provide appropriate, ethical assistance to self-represented litigants without unnecessary procedural burdens that discourage pro bono participation or limit meaningful access to justice. The Commission's

[42] According to the American Bar Association, unbundled legal services or limited scope representation is "an alternative to traditional, full-service representation. Instead of handling every task in a matter from start to finish, the lawyer handles only certain parts and the client remains responsible for the others. It is like an à la carte menu for legal services, where: (1) clients get just the advice and services they need and therefore pay a more affordable overall fee; (2) lawyers expand their client base by reaching those who cannot afford full-service representation but have the means for some services; and (3) courts benefit from greater efficiency when otherwise self-represented litigants receive some counsel."
https://www.americanbar.org/groups/delivery_legal_services/resources/.

prior limited-scope work is attached for the Court's consideration. See Appendix A – Access to Justice Commission, Pro Se Assistance/Limited Scope Review, November 22, 2023.[43]

### B. Out-of-State Attorneys Performing Pro Bono Work in Tennessee

In general, attorneys must be licensed in the jurisdiction where they perform pro bono legal work. However, some states permit attorneys licensed elsewhere in the United States to provide pro bono services in-state under defined conditions. Texas, for example, created the New Opportunities Volunteer Attorney (NOVA) Pro Bono Program. Under that program, inactive members of the State Bar of Texas and lawyers licensed and in good standing in other states may participate if they provide pro bono services through an approved legal services organization and satisfy certification requirements. Tennessee could consider adopting a similar rule. See Appendix B – Examples of Out-of-state Pro Bono Rules from Other Jurisdictions.

### C. Paralegal Support for Pro Bono Work

The Court may also wish to consider ways to encourage attorneys and law firms to allow paralegals to contribute time and resources to pro bono matters under attorney supervision. National organizations including the National Federation of Paralegal Associations and the American Bar Association have recognized the importance of supervised paralegal work in expanding legal services.[44] Supervised paralegal assistance can support intake, drafting, research, and certain administrative and tribunal-related functions, and can therefore increase the capacity of lawyers and legal services organizations to serve more Tennesseans.

### D. Rule Refinements Affecting Self-Represented Litigants

The Court should also consider whether additional model rules, local rules, or statewide procedural refinements would make the courts easier for self-represented litigants to navigate. Tennessee already has an example of this approach in the Pro Se Bench Book for General Sessions Judges, which includes draft rules and practices that may assist courts in handling cases involving self-represented parties. See Appendix C – Pro Se Bench Book for General Sessions Judges. Several trial courts across the state have adopted helpful practices that could serve as models. Other model rules for the Court to consider are:

- Waiting a certain amount of time for the pro se litigant to appear in court before entering a default,

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[43] Access to Justice Commission, Pro Se Assistance/Limited Scope Review, November 22, 2023. Appendix A contains the Commission's earlier work regarding limited scope representation and ghostwriting. It predates, and has not been revised to address, the 2025 developments concerning Tennessee Rule of Civil Procedure 11.01. Before those developments, the Access to Justice Commission had voted to seek action consistent with the findings reflected in this material, either by requesting an opinion from the Board of Professional Responsibility consistent with those conclusions or by seeking a comment to Tennessee Supreme Court Rule 8 from the Tennessee Supreme Court. Before that work was completed, Formal Ethics Opinion 2025-F-172 was issued, resulting in separate review of Rule 11.01 and suspension of the Commission's earlier Rule 8 efforts pending that process.

[44] https://www.americanbar.org/groups/litigation/resources/newsletters/ethics-professionalism/ethics-paralegal-work-supervision-litigation/?login.
https://cdn.ymaws.com/www.paralegals.org/resource/resmgr/files/migration/n/non_lawyer_practice_2_.pdf

- Providing videos and other documents to explain what to expect in court, the order of the docket, and explaining whether volunteer mediators are available,
- Permitting trained court clerks to explain a court process or the law to self-represented litigants without violating unauthorized practice of law rules,
- Ordering courts to explain information to an unrepresented party and assist in eliciting relevant facts to ensure a fair decision,
- Granting continuances to either party at least one time unless otherwise restricted by law so long any legal protection in place remains during the continuance(s),
- Encouraging appropriately trained mediators to be available for certain dockets for mediator of the day programs,
- Ensuring rules and processes make it easy for self-represented litigants to request and obtain an affidavit of indigency under a defined process for the affidavit to be timely reviewed by a judge so that applicants do not need to come back to court to file the underlying court document, and
- Not allowing writs of possession to be executed in eviction cases if not sought timely and within a prompt timeframe after an eviction judgment. See Appendix C.

### E. Appointment of Counsel in Certain Civil Matters

The Court could amend TSC Rule 13 to allow the appointment of counsel in certain civil cases. The Commission recognizes the enormity of this reform, but the impact it would have on low-income Tennesseans who cannot afford legal counsel or do not qualify for assistance from legal service organizations would be significant. The Commission recommends that the Court evaluate such a rule change that would allow for appointments in certain civil cases. See Appendix B for examples of other jurisdictions that allow appointment for civil cases on a case-by-case basis.

### F. Rule 6.1 and Support for Civil Legal Services

Finally, the Court may wish to consider whether Rule 6.1 should be revised to increase the practical impact of pro bono work and financial support for civil legal services.[45] Many of the regulatory reform recommendations will require a significant financial support to help fill the access to justice gap. Rule 6.1 could be a source for some of that funding if lawyers were required to do more than just aspire to 50 hours of pro bono. Lawyers could have a choice of providing free legal services or providing financial support to legal services organizations in lieu of pro bono hours. The District of Columbia has adopted a rule that could serve as a model.[46] The Court could ask the Commission to examine what other states have implemented regarding mandatory pro bono and make a suggestion to amend to Rule 6.1.

4. **The Court should galvanize legal experts to develop plain-language self-help materials and leverage responsible generative AI tools to expand access to legal**

[45] DarKenya W. Waller and Eric G. Osborne, Democracy, the Justice Gap and Preserving the Rule of Law, https://las.org/democracy-the-justice-gap-and-preserving-the-rule-of-law/; https://issuu.com/nashvillebarassociation/docs/2024_summer_nbj_online.

[46] https://www.dccourts.gov/sites/default/files/matters-docs/rule49.pdf.

**information for self-represented litigants.** *(Identified through Commission research as a high-impact priority.)*

The Commission recommends that the Court view plain-language forms, self-help resources, and responsible technology as closely related components of a modern access-to-justice strategy. For many Tennesseans, especially those in rural areas and those who cannot afford counsel, meaningful access to justice depends not only on the availability of lawyers, but also on whether litigants can understand court processes, locate reliable materials, and present their claims or defenses in a form the legal system can meaningfully process.

### A. Statewide Forms and Self-Help Resources

The Tennessee Supreme Court is the only entity in Tennessee that can approve statewide use of plain-language legal forms for filing with the courts under Tennessee Supreme Court Rule 52. The creation of additional statewide forms would materially improve access to the Tennessee court system, including in rural areas. The availability of approved forms would promote consistency, reduce confusion, and help self-represented litigants present legally sufficient information to the court. In addition, if the Court ultimately approves paraprofessional or other non-lawyer assistance models, the existence of clear, approved forms will make those reforms more effective and more administrable.

The need for additional forms is particularly important in case types where one side has a readily available form and the other does not. Without sufficient forms, litigants may not have a meaningful opportunity to be heard. For example, in general sessions court, there is a statutorily created detainer summons form, but there is no comparable statewide form for a tenant to assert defenses or related claims. These kinds of gaps can make the system more difficult to navigate for unrepresented parties.

The Commission therefore recommends that the Court authorize the Commission and the Administrative Office of the Courts to work together to develop a more robust and modern self-help portal or center.[47] This effort should include sustained staffing and project management, including a dedicated position responsible for coordinating the development, review, approval, updating, and maintenance of plain-language forms; overseeing the usability and organization of the portal; and incorporating appropriate technological advances into the delivery of self-help resources. The Court may also wish to consider whether Rule 52 could be refined to allow the Commission and the Administrative Office of the Courts to evaluate, prioritize, and advance forms projects in a more systematic way so that forms development becomes an ongoing access-to-justice priority rather than a piecemeal effort.

Other states demonstrate the value of this approach. Kentucky, for example, has developed a self-help portal that includes guided interviews for numerous court forms,[48] and other

[47] Our current Tennessee Self Help Center is difficult to navigate: https://www.tncourts.gov/programs/self-help-center.

[48] https://www.kycourts.gov/Legal-Help/Pages/Self-Help-Portal.aspx.

state court systems provide useful models Tennessee can study in building a stronger statewide resource.[49]

### B. Responsible Use of Generative AI in Self-Help Services

Artificial intelligence makes this work more urgent, not less. Self-represented litigants are already using publicly available generative AI tools to ask legal questions, draft filings, and attempt to navigate court processes. That reality cannot be ignored. AI therefore presents both a serious risk and a significant opportunity.

On the one hand, general-purpose tools may generate inaccurate, incomplete, overconfident, or legally unsound information. Self-represented litigants who rely on those tools may prepare flawed pleadings, misunderstand deadlines or procedures, or present arguments that are not supported by Tennessee law. That can harm litigants, create inefficiencies for courts, and undermine confidence in the justice system. If the justice system does not provide better alternatives, many users will continue turning to tools that are not designed for Tennessee courts, Tennessee procedure, or the practical realities faced by self-represented litigants.

On the other hand, responsibly designed and carefully limited AI tools could become one of the most effective ways to expand access to legal information and self-help assistance. If grounded in Tennessee-specific law, approved forms, court rules, and carefully curated plain-language content, such tools could help litigants understand court processes, identify the correct forms, complete guided interviews, receive explanations of common legal terms and procedural steps, and avoid common filing errors.

For that reason, the Commission recommends that the Court partner with the Administrative Office of the Courts, legal services organizations, technologists, and other stakeholders to identify funding sources and develop safe, limited AI-supported tools for self-represented litigants. These tools should not attempt to replace lawyers or provide unrestricted legal advice. Rather, they should be built to expand reliable access to legal information and to direct users toward approved Tennessee resources instead of leaving them to depend on unregulated public platforms that may produce erroneous or fabricated legal work.

The Commission believes this reform may have especially significant promise. In many case types, the combination of court-approved forms, guided self-help tools, and carefully bounded generative AI could have a greater practical impact on day-to-day access to justice than almost any other single reform. AI is already shaping how people seek legal help. The Court therefore has an opportunity to ensure that this emerging technology supports the public with accurate, understandable, and Tennessee-specific resources rather than allowing the field to be shaped entirely by general consumer tools.

In short, forms are now more important because of AI, not less. If the court system does not provide reliable plain-language materials, guided tools, and carefully bounded technological resources, self-represented litigants will continue to rely on whatever tools they can

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[49] https://betterinternet.law.stanford.edu/2018/07/28/making-an-inventory-of-self-help-websites/. See Alabama, South Carolina, Connecticut.

find. The question is not whether AI will affect access to justice. It already does. The question is whether Tennessee's courts will help shape that reality in a way that protects the public while expanding meaningful access to justice. The Commission believes that improved statewide forms, a stronger self-help infrastructure, and responsibly limited generative AI tools may together offer one of the greatest opportunities to improve access to justice for Tennesseans.

## Regulatory Reforms Considered Without a Recommendation

The Commission was tasked with evaluating potential regulatory reforms through the lens of improving access to justice. After thorough analysis, the Commission determined the regulatory reform options listed in questions 1, 2, and 7 of the Court Order do not create present clear or effective pathways to expanding access to legal services. The following section explains the reasoning behind this conclusion and outlines the key considerations that informed the Commission's position.

### A. ABA Accreditation (Questions 1 and 2)

The Commission carefully considered the questions posed by the Court regarding reliance on ABA accreditation, alternatives to that accreditation, and less costly alternatives to the traditional three-year law school curriculum. These questions have generated significant public attention and commentary. After thorough review, the Commission does not recommend that the Court reduce or eliminate its reliance on ABA accreditation and offers the following analysis in support of that conclusion.

Tennessee already occupies a more flexible position than many jurisdictions on this issue. Under existing rules, graduates of Tennessee law schools approved by the Board of Law Examiners but not accredited by the ABA may sit for the Tennessee bar. The Nashville School of Law provides one such pathway, serving non-traditional students and career-change professionals who may otherwise lack access to legal education. This structure provides an additional pathway into the legal profession for Tennesseans who might not otherwise have access to legal education. However, expanding the number of non-ABA-accredited institutions would require the Court and the state to develop and maintain a robust independent oversight framework to ensure quality and protect consumers, a responsibility that currently falls largely to the ABA and one that would demand significant and sustained state resources. In this respect, Tennessee has already implemented a measured, locally tailored alternative to exclusive reliance on ABA accreditation, and the existing framework represents an appropriate balance between expanded access and responsible oversight.

The Commission's analysis leads it to conclude that moving beyond this existing framework to further reduce or eliminate reliance on ABA accreditation would not meaningfully

advance access-to-justice goals and could in fact undermine them. The Commission's concern centers on two related issues: attorney supply and interstate mobility.

Tennessee's law schools draw students from across the country, many of whom remain in Tennessee to practice after graduation. ABA accreditation is a critical factor in that pipeline. Graduates of ABA-accredited schools are generally eligible to sit for the bar in any state, making Tennessee an attractive destination for students who may be uncertain where they will ultimately practice.[50] If Tennessee were to reduce or eliminate its reliance on ABA accreditation, law schools operating under that reduced standard would produce graduates whose ability to practice in other states would be significantly restricted. Prospective students who are uncertain about where they wish to practice, which includes many law students, would have strong incentives to choose schools in states that maintain full ABA accreditation. Reduced enrollment at Tennessee law schools would mean fewer graduates entering the Tennessee bar, fewer lawyers available to serve underserved communities, and fewer attorneys willing to take on rural or public interest work. The access-to-justice consequences of shrinking Tennessee's attorney pipeline would fall hardest on the very populations the Commission is charged with serving.

The interstate mobility concern is equally significant. Graduates of non-ABA-accredited schools already face meaningful limitations on their ability to practice across state lines. Most jurisdictions continue to condition bar admission on ABA accreditation, and there is no indication that this is changing in a way that would benefit Tennessee graduates.[51] A Tennessee law graduate who cannot be licensed in neighboring states is a less attractive candidate for multistate employers, less mobile in response to market demands, and less able to follow clients whose legal needs cross state lines. Reduced portability does not serve access-to-justice goals.

The CLEAR Report reflects this tension and does not recommend the wholesale abandonment of ABA accreditation. The Report questions whether certain accreditation standards, many of which focus on institutional inputs such as faculty composition, facilities, and administrative structures, are sufficiently tied to demonstrated practice readiness or improved client outcomes, particularly given their contribution to the rising cost of legal education.[52] The Commission shares the concern that rising tuition and resulting student debt materially affect graduates' willingness and ability to serve low-income populations and rural communities.[53] The CLEAR Report acknowledges that national accreditation requirements have ensured uniform quality standards in accredited schools across the country, and notes that 49 states currently require graduation from an ABA-accredited law school.[54] The Report does not recommend the wholesale

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[50] Committee on Legal Education and Admissions Reform (CLEAR) Report and Recommendations, p. 91 (July 27, 2025), https://perma.cc/SW8E-FTX4.

[51] *Id.*

[52] *Id.* at 45-47.

[53] *Id.* at 98-99.

[54] *Id.* at 19.

abandonment of ABA accreditation, but rather calls on state supreme courts to encourage an accreditation process that promotes innovation, experimentation, and cost-effective legal education geared toward lawyers meeting the legal needs of the public.[55] The Commission views this as an endorsement of reform within the existing accreditation framework, not a call to abandon it.

With respect to alternatives to ABA accreditation, the CLEAR Report identifies state-based accreditation, outcome-focused regulation, and conditional or provisional approval models as tools some jurisdictions are exploring. Each of these alternatives, however, requires significant administrative capacity, sustained oversight infrastructure, and reliable metrics to ensure competence and public trust. Developing and maintaining such a system would require substantial investment by the Court and the state, and the evidence regarding the effectiveness of these models remains, by CLEAR's own assessment, emerging and uneven. Poorly designed alternatives risk shifting risk onto clients and the public rather than meaningfully expanding access.

For all of these reasons, the Commission concludes that reducing or eliminating reliance on ABA accreditation is not an access-to-justice solution for Tennessee. Tennessee's existing framework, which already accommodates non-ABA-accredited institutions through Board of Law Examiners approval, appropriately balances flexibility with the consumer protections and interstate mobility that ABA accreditation provides. The Commission recommends that the Court maintain its current approach on this issue while continuing to monitor developments in other jurisdictions and the ongoing work of CLEAR.

### B. Non-lawyer Law Firm Ownership (Question 7)

As for modifying or eliminating Rule 5.4 of the Tennessee Rules of Professional Conduct that generally prohibits fee sharing with non-lawyers and non-lawyer ownership of law firms, the Commission recognizes that non-lawyer ownership of law firms offers the potential to expand access to legal services through capital investment, competition, and innovation. Accordingly, several states are testing whether loosening ownership restrictions could increase service availability and affordability. At the same time, non-lawyer ownership of law firms raises serious concerns regarding professional independence, consumer protection, and the commercialization of legal practice. Current state experiments suggest cautious optimism among reformers but do not yet provide conclusive evidence that alternative business structures significantly reduce the justice gap. One of the hallmarks of this debate is the lack of definitive evidence. As a result, the national trend reflects incremental experimentation rather than wholesale deregulation.

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[55] *Id.* at 14.

**Conclusion**

For more than two decades, the Tennessee Supreme Court demonstrated a strong commitment to improving access to justice for all Tennesseans. As the Court considers the range of regulatory reform possibilities, the Commission urges the Court to prioritize targeted, data-driven reforms grounded in Tennessee's unique legal landscape and informed by emerging national models. By piloting carefully designed non-lawyer assistance programs, exploring alternative licensure pathways tied to public service and rural legal deserts, removing procedural barriers for self-represented litigants, and investing in modern tools like plain-language forms and responsible AI solutions, the Court can meaningfully expand access while preserving the competence, integrity, and public trust that define the legal profession. The Commission commends the Court's leadership on these issues and hopes for the opportunity to contribute to this process as the Court develops and implements effective, access-to-justice solutions.

Respectfully Submitted,

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Tennessee Supreme Court
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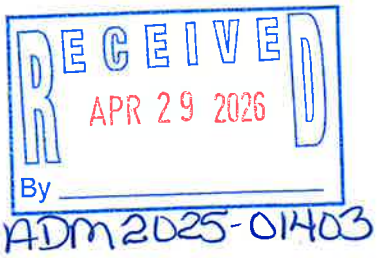
April 29, 2026




*Via email:* appellatecourtclerk@tncourts.gov

James Hivner, Clerk
Re: Regulatory Reform
100 Supreme Court Building
401 7th Avenue North
Nashville, TN 37219-1307

Re: Docket No. ADM2025-01403, Regulatory Reform

Dear Clerk Hivner:

I am submitting this comment pursuant to the Tennessee Supreme Court's Order, dated September 16, 2025, in docket number ADM2025-01403, *In re: Public Comments on Potential Regulatory Reforms to Increase Access to Quality Legal Representation.* In that Order, the Court requested comment on seven issues, which included: "[w]hether the Court should consider modifying requirements for admission to the Tennessee Bar for those licensed in other States to promote interstate practice and mobility." Order 6, Sept. 16, 2025, docket no. ADM2025-01403 (issue 5).

I write to tell the Court about my experience as an interstate attorney seeking admission to the Tennessee Bar. I am a highly trained and practiced environmental litigator, and I am currently a member of the Wisconsin Bar with no disciplinary history. I applied for admission without examination (comity) months before I moved to Tennessee.[1] Yet I have still not been admitted to the Tennessee Bar in over a year since I submitted my application, and I do not believe my experience is unique. I believe Tennessee's current practice for admission without examination discourages highly qualified, out-of-state attorneys like me from practicing in Tennessee.

*My Qualifications, Training, and Experience as an Environmental Litigator*

I attended the University of Wisconsin—Stevens Point (UWSP), where I triple-majored in biology, economics, and general resource management policy. That education gave me a foundation in the science of biology and natural resource management; environmental and natural resource law; and economics, including social and environmental economics. During my senior year at UWSP, I decided to attend law school to pursue a career in environmental law. I chose Drake University Law School, which is accredited by the American Bar Association, because Drake's education focused on preparing graduates to practice independently immediately upon graduation. While in law school, I served as the Articles Editor for the *Drake Law Review* and was

[1] Wisconsin has reciprocity with Tennessee. The Wisconsin Bar will allow a Tennessee attorney to move for admission upon proof of practice if that attorney has practiced law for at least three of the last five years. Wis. Sup. Ct. R. 40.05, https://www.wicourts.gov/sc/scrule/DisplayDocument.pdf?content=pdf&seqNo=540636.

the captain of one of Drake's two National Moot Court teams. I served as a teaching assistant for the 1L Legal Research and Writing class; a research assistant for former Dean Jerry Anderson; and an extern for former Iowa Supreme Court Justice Brent R. Appel.

During my 3L year, I applied for admission to the Wisconsin Bar. I graduated in May 2013 and sat for the Wisconsin bar exam in July 2013. At the time, the Wisconsin bar exam included one day of Multistate Bar Exam (MBE) multiple choice questions and a second day of state-specific essay questions. The Wisconsin Board of Bar Examiners provided test-takers with their raw scores as well as scaled results. For the July 2013 bar exam, the average scaled score for each test section was 144 points and a combined 258 points was required to pass. I answered correctly 170 of the 200 MBE questions, which placed me higher than 99.3% of Wisconsin test-takers during that exam. I received a MBE scaled score of 183 points and an essay scaled score of 181 points for a total scaled score of 364 points. This was well above the 258 points required to pass. I joined the Wisconsin Bar on October 14, 2013.

During law school, I interned at the U.S. Environmental Protection Agency's Office of General Counsel, and they offered me a position as their Honors Fellow upon graduation. I worked as the Honors Fellow for the Office of General Counsel from October 2013 to October 2014. In November 2014, I joined the environmental team at Godfrey & Kahn, S.C., a business-focused law firm based in Wisconsin. While at Godfrey & Kahn, I helped a client obtain the first wastewater discharge permit issued in Wisconsin that used a water quality trade to comply with a phosphorus discharge limitation.

In May 2016, I left Godfrey & Kahn to join the Wisconsin Department of Justice's (WDOJ) Environmental Protection Unit. I served as an Assistant Attorney General for the WDOJ from June 2016 through February 2025. In my role as an Assistant Attorney General, I civilly prosecuted violations of Wisconsin's environmental laws and defended the Wisconsin Department of Natural Resources (WDNR) when its decisions were challenged in court. I worked statewide, and most of my cases were in rural areas of the State.

In February 2025, I decided to move to Tennessee and join the Southern Environmental Law Center (SELC). SELC is a nonprofit, nonpartisan environmental organization rooted in the South. SELC has more than 160 legal and policy experts working to protect people, lands, air, water, climate, and wildlife across Virgina, North Carolina, South Carolina, Georgia, Alabama, and Tennessee. The staff in SELC's Tennessee office provide *pro bono* legal representation and advocacy for Tennesseans facing environmental issues. While SELC's Tennessee office is in Nashville, we represent clients throughout the State. For example, I have worked on major matters in Bedford and Marshall counties, neither of which has many experienced environmental litigators willing to provide *pro bono* representation.

I have been admitted to the bars of the United States District Court for the Middle District of Tennessee; the United States District Court for the Eastern District of Tennessee; the United States District Court for the Western District of Tennessee; and the United States Court of Appeals

for the Sixth Circuit. Despite my training, experience, and spotless disciplinary history, as of the date of this letter, I have yet to be admitted to the Tennessee Bar.

*My Application to the Tennessee Board of Law Examiners*

While I was still working at the WDOJ, I submitted a complete application for admission without examination to the Tennessee Board of Law Examiners. I submitted that application on February 18, 2025, *over a year ago now*. After I moved to Tennessee in April 2025 and joined SELC, I registered for practice pending admission. *See* Tenn. Sup. Ct. R. 7, § 10.07. The National Conference of Bar Examiners (NCBE) completed its review of my application in spring 2025, and I successfully completed the Tennessee Law Course on June 22, 2025, *see* Tenn. Sup. Ct. Rule 7, § 1.07.

I have followed up with the Board of Law Examiners regarding the status of my application, inquiring if anything is outstanding or missing. On January 15, 2026, the Board of Law Examiners told me that it was still reviewing applications that were submitted in 2024 and had not begun reviewing applications submitted in 2025. The Board of Law Examiners could not provide me with an estimate as to when it would begin reviewing applications submitted in 2025. I have not heard from the Board of Law Examiners since then.

*My Experience Seeking Licensure as an Out-of-State Attorney*

In my experience, seeking admission without examination to the Tennessee Bar is costly, delayed, and therefore not a functional pathway for admission. I believe the current process is discouraging qualified out-of-state attorneys from seeking admission in Tennessee, and the Court should take action to address systemic issues delaying this process.

Admission without examination is costly. As part of my complete application, I paid the NCBE $550.00. I also paid the Board of Law Examiners $1,436.02 (including the processing fee) to review my application, *a service which it has still not provided me over a year after collecting my payment*. In addition to the direct cost of my application, I paid the Wisconsin Board of Bar Examiners for a copy of my 2013 application to give to the Tennessee Board of Law Examiners; have paid the Wisconsin Supreme Court repeatedly for certificates of good standing to ensure I have a current certificate to support a *pro hac vice* motion; paid to register to practice pending admission in Tennessee; and paid to complete the Tennessee Law Course.

These monetary costs do not include the time and labor I have spent shepherding my application and dealing with the consequences of practicing under a temporary registration. I am obligated to explain my licensure status to clients. Tenn. Sup. Ct. R. 7, § 10.07(a)(6). I must work with another SELC attorney who is admitted to the Tennessee Bar and move for admission *pro hac vice* in any matter in state court, which puts more work on my colleagues. *See* Tenn. Sup. Ct. R. 19(a). This also burdens the courts to rule on the *pro hac vice* motions and the Board of Professional Responsibility to process the motions.

For over a year, I have been under a continuing obligation to update my pending application with the Board of Law Examiners if anything changes in my life. I must proactively reach out to the Board of Law Examiners to try and get updates on the status of my application because otherwise the Board does not communicate with me. I feel the stress of making sure that I comply with every special rule related to my temporary license status, because if I do not, I can be denied admission to the Tennessee Bar. I also must continue to maintain my license in Wisconsin despite having left that State in April 2025.

I know that my experience is not unique. There is an informal Facebook group for attorneys that have applied for admission without examination to the Tennessee Bar. Based on discussion in that group, I believe it is not uncommon for attorneys to wait a year and a half or two years for the Board of Law Examiners to review their applications. One applicant said that because the Board took almost two years to start reviewing his application, by the time the Board got to it, the Board considered it out-of-date and required him to submit new certificates of good standing and disciplinary history. I am concerned I will experience something similar once the Board finally begins reviewing my application, causing further delay and cost for me.

Tennessee's current inability to promptly process applications for admission without examination is deterring experienced attorneys from seeking admission here. I would not recommend it to other out-of-state attorneys. The only other route for admission would be to sit for the Tennessee bar exam, which would also be costly and burdensome. Nor do I think that should be required to better "protect" Tennesseans. I successfully completed the Wisconsin bar exam in 2013. I am a highly qualified and experienced environmental litigator with a clean disciplinary history who wants to provide *pro bono* legal services to the people of Tennessee, especially in areas outside of Tennessee's major cities. I believe I will provide quality, beneficial legal services to rural Tennesseans if admitted to the bar. Moreover, Tennessee relies on the Uniform Bar Exam, which does not even test the administrative and environmental law that I practice daily. Like me, I think that many practicing attorneys will not be willing to bear the cost of studying and sitting for a second bar exam, nor should they be forced to do so just to obtain timely review of their applications for admission.

At a minimum, the Court should formally change the rule to allow practice pending admission until the Board of Law Examiners takes final action on an application for admission without examination. *See* Tenn. Sup. Ct. R. 7, § 10.07(a). I also respectfully request that the Court address systemic challenges with the Board of Law Examiners. I assume the staff of the Board of Law Examiners are working in good faith to process applications for admission without examination as quickly as they can. Despite this, applications are not being processed promptly. If the Board of Law Examiners lacks staff, technology, or other resources to process applications, those issues must be addressed for comity to become a meaningful pathway to admission in this State. I respectfully encourage the Court to address the current costly and unduly delayed process.

I appreciate your review of my comment and consideration of my experience. I am happy to provide supporting documentation or discuss any of the details included in this letter if it would be of assistance to the Court.

Sincerely,

*s/ Emily M. Ertel*

Emily M. Ertel
Senior Attorney*

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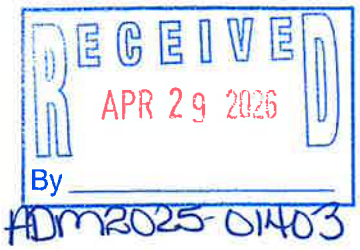
**Licensed in WI; not yet licensed in TN*

**MaryBeth Lindsey**

**To:** appellatecourtclerk
**Subject:** RE: Public Comment in Docket No. ADM2025-01403




**From:** Emily Ertel <eertel@selc.org>
**Sent:** Wednesday, April 29, 2026 10:09 AM
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**Cc:** George Nolan <gnolan@selc.org>
**Subject:** Public Comment in Docket No. ADM2025-01403

**Warning: Unusual sender** <eertel@selc.org>
You don't usually receive emails from this address. Make sure you trust this sender before taking any actions.

Dear Clerk Hivner:

Please find attached my public comment submitted pursuant to the Supreme Court of Tennessee's orders in docket no. ADM2025-01403, *In re: Public Comments on Potential Regulatory Reforms to Increase Access to Quality Legal Representation*. Please let me know if you have any issues accessing the attachment.

Thank you,

Emily Ertel

**Emily M. Ertel**
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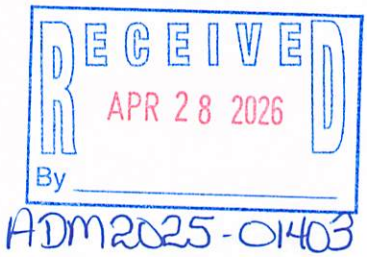




April 28, 2026

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**Re: Docket No. ADM2025-01403 – Public Comments on Potential Regulatory Reforms to Increase Access to Quality Legal Representation**

Dear Mr. Hivner:

The National Association for Law Placement (NALP) seeks to provide the following comments regarding the issue of whether the Tennessee Supreme Court should modify, reduce, or eliminate its reliance on the American Bar Association Council of the Section of Legal Education and Admissions to the Bar (the Council) accreditation in setting minimum educational requirements for applicants to the Tennessee Bar.

NALP is the preeminent association of law schools and legal employers throughout North America and beyond, focused on supporting and advancing the careers of law students and lawyers. NALP is widely recognized as the leading authority on the legal job market and the career paths of lawyers. For over 50 years, NALP has published the most comprehensive report in the industry on the employment outcomes of new law school graduates and has studied the trajectory of their careers over subsequent years. This research, combined with NALP's deep understanding of what drives the legal job market, uniquely positions NALP to comment on the potential impact to the careers of Tennessee law school graduates should the Tennessee Supreme Court alter the current Rules of the Supreme Court Relating to Admissions to the Bar to modify, reduce, or eliminate its reliance on Council accreditation.

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As a preliminary matter, it is essential to distinguish between *eliminating* the Council as the accreditor of Tennessee law schools and *providing an alternative* to it, as is already done in Tennessee and other states. While the latter raises concerns, it still maintains the option of participating in a national accreditation scheme. By contrast, it is NALP's position that outright eliminating the Council as a recognized accreditor of Tennessee law schools would be catastrophic to the careers of future Tennessee graduates. We therefore write to briefly explain this position.

**The Modern Legal Job Market Requires Portability**

To understand the impact of weakening the national accreditation system provided by the Council, it is important to understand that legal careers have changed profoundly since the Great Recession. While just a decade ago it was commonplace for lawyers to have lifelong legal careers in a single state, today's graduates face a much more fluid, competitive legal industry. Indeed, mobility — both geographic and professional — has become the defining feature of successful modern legal careers.

The importance of mobility, particularly in the early stages of a lawyer's career, is underscored by longitudinal studies conducted by NALP and the NALP Foundation that examine the employment status of law school graduates three years after graduation. This research shows an exceptionally high degree of mobility among early-stage lawyers with upwards of 70% of graduates from recent law school classes having held two or more jobs within their first three years of practice. Further, on average one in five of those job changes involve relocation, whether it's due to new professional opportunities or personal circumstances.

Given these facts, the portability of a law license is critical to the success and longevity of legal careers today. As bar eligibility in most states is directly tied to Council accreditation, weakening the national Council accreditation system would make it significantly more difficult for lawyers to relocate or adapt as their careers evolve. Practically speaking, JD degrees from non-Council-accredited law schools functionally limit where the degree holder can practice law and their employment prospects, ultimately decreasing the value of that degree and resulting in such individuals prematurely exiting the profession, if they ever practice law at all.

**National Accreditation is Critical for Graduate Mobility and Employment**

Maintaining a national accreditor is particularly critical for graduate mobility and employment immediately following law school. Currently, five of the six Tennessee law schools are Council-accredited, producing approximately 600 graduates annually. These students come from across the country, with out-of-state enrollment figures ranging

anywhere from 9% to 93% for the Class of 2028 (the most recently enrolled law school class). The fact that these law schools are currently accredited by the Council — which is the only national accreditor for law schools — provides these out-of-state students with the assurance that they can attend a Tennessee law school and return home after graduation and still be eligible to practice law. Eliminating Council accreditation removes that assurance and forces these students to choose between either remaining in Tennessee for practice or going elsewhere for law school.

Moreover, the negative impact of eliminating Council accreditation goes beyond just out-of-state students. NALP data shows that on average 42% of all Tennessee law graduates will obtain a job in another jurisdiction following graduation — a figure that is much higher than the national average of 34% and represents about 252 Tennessee law school graduates each year. Without Council accreditation, many of these graduates would not be eligible to be licensed in another state or would face severe hurdles in becoming so. In fact, for the past ten years, the top three jurisdictions for Tennessee graduates who obtain a job outside of Tennessee have been New York, the District of Columbia, and Texas. Should the Court eliminate Council accreditation, Tennessee graduates would no longer be eligible for admission in New York or the District of Columbia immediately following graduation. *See* N.Y. Ct. App. R. 520.5 (imposing a five-year practice requirement on graduates from non-Council-accredited law schools); D.C. Ct. App. R. 46 (imposing an additional study requirement on graduates from non-Council-accredited law schools).

The Texas Supreme Court recently amended their criteria for bar eligibility to allow graduates of non-Council-accredited schools to sit for the Texas bar exam, but only if such schools are approved by the Texas Supreme Court based on yet-to-be determined criteria. *See* Order, Misc. Dkt. No. 26-9002 (T.X. S. Ct. Jan. 6, 2026). Tellingly, the Nashville School of Law, Tennessee's only non-Council-accredited law school, was not included in the list of initially approved law schools attached to the Texas Supreme Court's order. Nor were any other non-Council-accredited law schools, including those that hold state accreditation such as the fifteen CALS schools in California. This fact illustrates the risks should the Court eliminate Council accreditation.

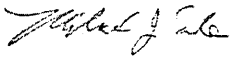
The lack of Council accreditation will also negatively impact the job opportunities of Tennessee graduates — whether they are staying in-state or going out-of-state. Mid to large-sized law firms, which collectively account for nearly 30% of all entry-level legal jobs, overwhelmingly prefer or require that applicants hold degrees from Council-accredited schools. Likewise, many government and public interest employers have similar preferences. For example, the IRS' prestigious Chief Counsel Honors Program requires candidates to have graduated from an Council-accredited law school. *See* IRS, The Chief Counsel Honors Program, https://www.jobs.irs.gov/resources/honors-program-entry-level-attorneys (accessed Apr. 23, 2026).

In short, a national accreditor is critical for graduate mobility and employment following law school. Eliminating Council accreditation for Tennessee law schools will limit the jurisdictions graduates can practice in, outright exclude them from many employment opportunities, and harm their overall job prospects.

**Conclusion**

For the foregoing reasons, the National Association for Law Placement encourages the Supreme Court of Tennessee to maintain Council accreditation as a component of Tennessee bar admission requirements. While alternatives like California's model should be studied carefully, eliminating reliance on the Council as the accreditor for Tennessee' law schools would severely harm its graduates and lawyers and undermine the national accreditation scheme that is vital for an increasingly mobile profession.

Respectfully submitted on behalf of the National Association for Law Placement,

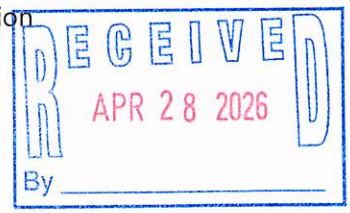


Michael J. Ende
President

Nikia Gray,
Executive Director

**MaryBeth Lindsey**

**To:** appellatecourtclerk
**Subject:** RE: Docket No. ADM2025-01403 – Public Comments on Potential Regulatory Reforms to Increase Access to Quality Legal Representation




**From:** Nikia Gray <ngray@nalp.org>
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**Subject:** Docket No. ADM2025-01403 – Public Comments on Potential Regulatory Reforms to Increase Access to Quality Legal Representation

ADM 2025-01403

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Dear Mr. Hivner-

Attached please find comments from the National Association of Law Placement in response to Docket No. ADM2025-01403 – Public Comments on Potential Regulatory Reforms to Increase Access to Quality Legal Representation.

Please do not hesitate to let us know if there are any questions about our comments or NALP's data. We are happy to be of further assistance.

Best regards,
Nikia

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Pronouns: She/Her/Hers

*NALP believes in fairness, facts and the power of a diverse community.*

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

**IN RE: PUBLIC COMMENTS ON POTENTIAL REGULATORY REFORMS TO INCREASE ACCESS TO QUALITY LEGAL REPRESENTATION**

**No. ADM2025-01403**

**PUBLIC COMMENT OF RENÉ GALICIA, ESQ.**
California State Bar No. 349282
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Submitted April 28, 2026

## INTRODUCTION AND SUMMARY

René Galicia, Esq. is a California-licensed attorney residing in East Tennessee. He holds a Juris Doctor degree from a law school approved by the California Committee of Bar Examiners, passed the California bar examination, and has practiced law in matters ranging from corporate in-house counsel work to immigration, estate planning, business and real estate law, and civil representation for low-income, Spanish-speaking clients. He cannot become licensed in Tennessee without re-examination. Not because he lacks competence and not because he has failed a bar examination, but because the organization that accredited his law school was not the American Bar Association.

This comment argues that Tennessee's current reliance on ABA accreditation as the threshold requirement for bar eligibility does not serve the public protection purpose that justifies it. The bar examination tests competence. Accreditation tests institutional characteristics. Where an applicant has passed a rigorous bar examination and practiced under the professional responsibility rules of a licensing jurisdiction, the identity of the organization that approved his law school is not a meaningful proxy for his fitness to serve Tennessee clients. It is an administrative credential that, in practice, functions as a market-entry barrier with no corresponding public protection benefit.

The barrier is absolute on the comity track. Rule 7, Section 5.01, requires satisfaction of the educational requirements of Section 2.02, which mandate ABA accreditation. The commenter's non-ABA JD forecloses the comity pathway entirely, regardless of his years of practice, the rigor of the bar examination he passed, or his standing as a licensed attorney in California. The practice requirement is not even the obstacle he faces; the educational gate closes before he reaches it. His only available pathway is to retake a bar examination he has already passed, in a state that uses a less demanding examination format than California employed when he became licensed. Alternatively, he could obtain an ABA-accredited JD, spending three or more years and well over $150,000 to obtain a second law degree, substantively identical to the one he already holds, after which he would qualify for comity admission without examination. The rule would give priority to an ABA diploma he did not originally earn over a California license he has held and practiced under for nearly 3 years. Neither option serves any public protection purpose. Both are precisely the kind of result the absurd results canon, applied by Tennessee courts to Supreme Court Rules as well as statutes, exists to prevent.

Tennessee's rules have already mapped this contradiction. Rule 7 Section 2.02(d) permits non-ABA graduates to sit for the Tennessee bar examination upon demonstrating substantially equivalent education and practice experience, implicitly conceding that non-ABA education can be sufficient. Rule 47 permits any licensed attorney, regardless of educational pedigree, to practice Tennessee state law during declared disasters, implicitly conceding that ABA accreditation is not a competency variable. The commenter qualifies under both provisions. What the current rules do not offer is a pathway to the full, permanent, sustainably funded practice that Tennessee's underserved communities need and that qualified attorneys already living and working in this State are prepared to build.

This comment addresses Questions 1, 2, 5, 6, and 7 of the Court's September 16, 2025, Order. It urges the Court to end ABA exclusivity in bar eligibility, following the models adopted by Texas and Florida in January 2026 and by the District of Columbia in April 2026, and to leverage Tennessee's existing regional accreditation infrastructure through SACSCOC and its founding participation in the Commission for Public Higher Education. It proposes replacing the comity admission practice requirement with individualized evaluation, provisional licensure, and credit for part-time and legal aid service, anchored by the Tennessee Law Course, which is already mandatory for all comity applicants. It urges caution regarding paraprofessional expansion, recommending that the Court prioritize licensed-attorney access reforms before broadening the scope of non-attorney practice, and identifies minimum safeguards should the Court proceed. And it proposes specific amendments to Rule 7, Sections 2.02(a) and 5.01(a), for the Court's consideration.

The reforms proposed here do not lower Tennessee's standards. They align Tennessee's gatekeeping mechanisms with the competencies they are meant to serve.

## I. STATEMENT OF INTEREST

This Court has invited comment on whether the regulatory framework governing admission to the Tennessee Bar unnecessarily restricts access to legal services for Tennesseans and, if so, what reforms would better serve the twin goals of expanding access while ensuring competence. This comment addresses Questions 1, 2, 5, 6, and 7 of the Court's September 16, 2025, Order. It argues that these goals are not in conflict; properly designed reforms can simultaneously expand the supply of qualified legal services and maintain, or improve, the quality of representation available to Tennesseans who need it most.

The commenter is René Galicia, Esq., a California-licensed attorney (California State Bar No. 349282) who resides in East Tennessee. He holds a Juris Doctor degree from a law school approved by the California Committee of Bar Examiners, a state-authorized body that applies rigorous standards to the schools it approves, including curriculum review, faculty qualifications, and student outcomes. His school was not accredited by the American Bar Association ("ABA"). He passed the California bar examination, which, at the time he took it, was a three-day examination widely regarded as the most rigorous state bar examination in the United States.[1] He currently serves as General Counsel for a Texas-based corporation under Texas Disciplinary Rule 5.05(c), which permits out-of-state licensed attorneys to provide legal services exclusively to their employer without obtaining a Texas law license. His only bar license is in California. He also maintains a part-time California practice focused primarily on pro bono and low-cost legal services for low-income clients, many of whom are Spanish-speaking members of immigrant communities.

He would like to become licensed in Tennessee to serve its residents, particularly low-income, underserved, and Spanish-speaking communities that face acute shortages of accessible legal representation. He cannot. Under Tennessee Supreme Court Rule 7, Sections 2.02(a) and 5.01(a), his Juris Doctor degree from a California state-approved, non-ABA-accredited law school does not satisfy the educational requirements for admission by comity. Tennessee's current rules do not ask whether he is competent to practice law. They ask only whether the organization that accredited his law school was the ABA. The answer is no, and that answer, whatever its original justification, now operates as an arbitrary barrier to qualified attorneys who are prepared and willing to serve Tennessee's communities.

The commenter's situation also illustrates a categorical barrier that runs deeper than the practice requirement: his non-ABA JD disqualifies him from the comity pathway under Rule 7, Section 5.01, entirely, regardless of how many years he has practiced or that he holds a California license in good standing. The five-of-seven-year practice requirement is not even the main obstacle he faces on the comity track. The ABA education requirement forecloses that pathway before the practice clock ever begins to run.

Tennessee's existing rules have already mapped this territory and found it wanting. They offer the commenter a hierarchy of inadequate half-measures. RPC 5.5(d) permits employer-only practice, but the commenter has no Tennessee employer. Rule 7 Section 10.01 permits registered in-house

counsel to provide pro bono services through established nonprofit bar programs, but that pathway requires a Tennessee employer that he does not have, restricts practice to that employer's representation, and, in any event, channels pro bono work only through nonprofit programs, foreclosing the low-bono and fee-paying client relationships that make a sustainable community practice financially possible. Rule 47, invoked during declared disasters, imposes no ABA requirement but restricts practice to pro bono services and expires upon the emergency's end. Rule 7, Section 2.02(d), would permit him to sit for the Tennessee bar examination, but that would entail retaking a competency examination he has already passed. None of these pathways accomplish what full admission under reformed rules would accomplish. This comment explains why reform is warranted and what it should look like.

This is not an isolated case. It is a structural problem. Tennessee's current reliance on ABA accreditation as the gateway to bar eligibility, and its attendant practice requirements under the comity rules, excludes attorneys who have demonstrated competence through the only measure that actually tests it: passing a bar examination. This comment urges the Court to reclaim its regulatory authority over legal education standards, modernize its interstate admission framework, and, in doing so, unlock a meaningful supply of qualified attorneys for the Tennesseans who need them most.

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[1] The California bar examination was a three-day examination until February 2017, when it was reduced to two days. California has never adopted the Uniform Bar Examination, although on April 17, 2026, the California Committee of Bar Examiners recommended that the California Supreme Court adopt the NextGen UBE beginning in July 2028, subject to Board of Trustees and California Supreme Court approval. See Cal. Bar, CBE Recommends the NextGen Uniform Bar Exam and Consideration of a Future California Component (Apr. 17, 2026), https://www.calbar.ca.gov/news/cbe-recommends-nextgen-uniform-bar-exam-and-consideration-future-california-component. California historically administered a hybrid examination: Multistate Bar Examination multiple-choice questions developed by the National Conference of Bar Examiners ("NCBE"), combined with California-written essays and performance tests. California's bar passage rates consistently rank among the lowest in the country for first-time takers, reflecting the examination's rigor. At the time the commenter passed the exam, the minimum passing score was a scaled 1440 out of 2000. See Cal. Bar, Statistics, https://www.calbar.ca.gov/Admissions/Examinations/California-Bar-Examination/Statistics (last visited Apr. 27, 2026).

## II. QUESTIONS 1 AND 2: THE COURT SHOULD END ITS EXCLUSIVE RELIANCE ON ABA ACCREDITATION AND RECLAIM ITS OWN REGULATORY AUTHORITY

The Court asks whether it should "modify, reduce, or eliminate its reliance on [ABA] accreditation in setting minimum educational requirements for applicants to the Tennessee Bar" and whether "there are any practicable alternatives to ABA accreditation" it should consider.[2] The answer to the first question is yes. The answer to the second is also yes, and the roadmap already exists in the reforms adopted by Texas and Florida in January 2026, the District of Columbia in April 2026, and in the accreditation infrastructure that Tennessee itself is helping to build.

**A. The Bar Examination, Not School Accreditation, Is the Appropriate Competency Gatekeeper**

Accreditation is an input measure. It assesses the characteristics of a legal education program, its curriculum, faculty, library resources, and facilities, against a set of standards established by the accrediting body. Bar passage is an output measure. It directly assesses whether a candidate possesses the minimum legal knowledge and analytical skills necessary to practice law competently. Where both measures are available, the output measure is the more reliable and more defensible gatekeeper for public protection purposes.

Tennessee already uses the Uniform Bar Examination ("UBE"), a standardized, psychometrically validated assessment of minimum competence adopted by forty-one jurisdictions.[3] The UBE tests knowledge across the full range of subjects a newly admitted attorney must understand, through various formats, the Multistate Bar Examination, the Multistate Essay Examination, and the Multistate Performance Test, designed to assess legal reasoning and application, not mere memorization of doctrine. When a candidate passes the Tennessee UBE with a scaled score of 270 or higher, he has demonstrated, through a validated, independently administered examination, that he possesses the minimum competence to practice law in this State.[4]

Against this backdrop, the question of which entity approved his law school is, at most, a secondary concern. The Court's own rules acknowledge this. Rule 7, Section 2.02(d) already creates a discretionary pathway through examination for non-ABA graduates who hold degrees from schools approved by "an authority similar to the Tennessee Board of Law Examiners," have passed a bar examination "equivalent to that required by Tennessee," and have practiced for three of the preceding five years.[5] The Court has, therefore, already determined that non-ABA legal education can be sufficient; the question is only whether that determination should remain a narrow, discretionary exception or become a principled, systematic rule.

This Court should adopt the latter approach. Where an applicant has passed a bar examination that directly tests minimum competence, the accrediting body that approved his law school is not a meaningful proxy for his fitness to practice. Conditioning his admission on ABA accreditation substitutes an input measure, which organization approved his school, for the output measure, whether he passed the bar, in a way that serves no identifiable public protection purpose that the bar examination does not already serve.

The practical consequence of this framework is illustrated by the commenter's own situation. The comity pathway under Rule 7 Section 5.01 is not available to him at all. Section 5.01(a)(1) requires the applicant to satisfy the educational requirements of Section 2.02, and Section 2.02(a) requires ABA accreditation. His non-ABA JD fails that threshold categorically. No amount of practice experience, no length of California licensure, and no demonstration of professional accomplishment can cure the educational disqualification under the current rule. The comity clock never begins to run for him because the educational gate is closed before he reaches it.

His only available pathway to Tennessee admission is the bar examination under Section 2.02(d). Under that provision, he very likely satisfies the educational requirements to sit: his California state-approved JD was granted by an authority similar to the Tennessee Board of Law Examiners; he passed the California bar examination, which Rule 7 Section 2.02(d)(2) requires to be equivalent to Tennessee's; and he will satisfy the three-of-five-year practice requirement under Section 2.02(d)(3) as of next month. Tennessee's rules, therefore, already implicitly recognize his education as sufficient to attempt admission. What the rules require, however, is that he retake a bar examination he has already passed. That requirement does not advance any competency purpose. He has already demonstrated minimum competence through licensure. Requiring him to demonstrate it again through a different examination does not protect the public; it merely delays his ability to serve it.

Under current Rule 7, the options available to a licensed, practicing attorney in his position are two and only two: sit for the Tennessee bar examination, retaking an assessment of minimum competence he has already satisfied in a more demanding jurisdiction, or return to an ABA-accredited law school to obtain a second Juris Doctor degree substantively identical to the one he already holds, at a cost exceeding $150,000 and no less than three additional years of full-time study, after which he would qualify for comity admission without examination. The first option is redundant. The second defies any competency rationale. Tennessee courts apply the absurd results canon to Supreme Court Rules as they do to statutes, declining to adopt interpretations that produce outcomes illogical or contrary to the rule's evident purpose, even when the plain text appears to support them. The evident purpose of Rule 7's educational requirements is to ensure a minimum level of competence. Requiring a licensed, practicing attorney to obtain a second law degree substantively identical to the one he already holds, or to retake an examination of minimum competence he has already passed, serves no competency or public protection purpose. It is precisely the kind of result the absurd results canon exists to prevent.

The redundancy of the bar examination requirement becomes even sharper when examined alongside Rule 7, Section 3.05, which permits attorneys who passed the UBE in another jurisdiction to transfer their scores to Tennessee without retaking the examination.[6] An attorney who passed the UBE at exactly 270 in any of the forty-one UBE jurisdictions may transfer that score to Tennessee today. The commenter, who passed a more demanding examination in California (1440 passing score, often considered equivalent to a UBE 288 score), may not. California's professional responsibility standards are similarly demanding: the MPRE minimum passing score in California is 86, compared to Tennessee's required 82, reflecting California's more stringent threshold for professional conduct licensure. The disparity is not a function of relative competence. It is a function of the examination format California adopted, a decision made for its own reasons that has no bearing on the commenter's fitness to practice Tennessee law. When the mechanism designed to avoid redundancy, the UBE score transfer, is unavailable solely because of format rather than rigor, the bar re-examination requirement cannot be justified as advancing any legitimate competency or public protection goal.

**B. The ABA's Accreditation Monopoly Operates as an Anticompetitive Restraint on Legal Education**

The Federal Trade Commission's Office of Policy Planning and Bureau of Competition addressed this issue directly in a December 2025 comment to the Texas Supreme Court. The FTC staff concluded that the ABA's exclusive control over law school accreditation constitutes a "monopoly" that "increases the cost of a legal education" and "limits the supply of new lawyers," and that delegating bar eligibility to the ABA "effectively gives the ABA . . . the ability to exclude market participants who would compete with its members."[7]

The FTC's analysis is grounded in well-established antitrust principles. In North Carolina State Board of Dental Examiners v. FTC, the Supreme Court held that a state professional licensing board composed of active market participants is not entitled to state action antitrust immunity unless the state actively supervises the board's conduct.[8] The Tennessee Supreme Court does not actively supervise the ABA's accreditation decisions. It simply accepts them. Under Dental Examiners, that passive delegation to a body whose members have strong financial interests in restricting entry raises serious anticompetitive concerns.[9]

The ABA's accreditation standards provide a concrete illustration of the problem. Chapter 6 of the ABA's Standards historically required law schools to maintain a full-time law library director holding a law faculty appointment, in most cases a tenure-track position, along with dedicated library staff and a physical collection spanning all federal court decisions, all state appellate decisions, all federal and state regulations, and significant secondary materials.[10] These requirements imposed substantial fixed costs on every ABA-accredited school, costs that flowed directly into tuition. They had no demonstrated relationship to producing competent lawyers. The ABA itself was ultimately forced to acknowledge this: in 2024, the ABA loosened these requirements, removing the mandatory full-time director requirement and eliminating the prescribed core collection, stating simply that "physical books are no longer required."[11]

That concession is instructive. If the library standards were sound educational policy, they would not have been abandoned under pressure. If they were necessary for minimum competence, their removal would have generated educational objections rather than relief. The reality is that they were the kind of cost-inflating, innovation-suppressing requirements that the FTC identified as the predictable output of a monopolist accreditor whose standards serve the interests of incumbent institutions more than the public. The library requirement is one example; it is not the only one.

The commenter's own experience illustrates the point at the individual level. His California state-approved law school provided access to legal research tools, curriculum, and instruction that enabled him to pass the California bar examination. The fact that his school did not maintain the physical library infrastructure and tenured library faculty that ABA standards historically required did not diminish the quality of his legal education or his competence as an attorney. It did, however, reduce the cost of his legal education, enabling him to complete law school later in life without

incurring significant debt and on a schedule compatible with his other obligations. That is precisely the kind of cost-effective, accessible legal education model that the Court should encourage.

### C. The ABA Lacks the Democratic Legitimacy to Serve as a Quasi-Governmental Gatekeeper

The ABA presents itself as the voice of the American legal profession. The membership data do not support that claim. As of the 2024 fiscal year, the ABA had approximately 170,000 dues-paying attorney members, roughly 13 percent of the approximately 1.3 million licensed attorneys in the United States.[12] In 1979, approximately half of all American attorneys were ABA members.[13] The organization adds more than 25,000 new members annually but retains only about 53% of them.[14] In the 2024 fiscal year, attorney member dues generated approximately $42.7 million for the ABA, accounting for approximately 36% of its total reported revenue.[15]

This is not the profile of a representative professional body. It is the profile of an organization whose authority has been delegated by states, not earned through the voluntary endorsement of the profession it purports to represent. When Tennessee delegates accreditation authority to the ABA, it is not delegating to "the legal profession." It is delegating to a private advocacy organization with a 13 percent constituency share, operating without active state supervision, whose financial structure increasingly counts on revenue other than dues from the attorneys whose gatekeeping it controls.

The Supreme Court's analysis in Dental Examiners is again instructive. The Court emphasized the particular danger of competitive harm "when a state professional board is composed of unsupervised industry competitors."[16] The ABA Council that sets accreditation standards consists of law school administrators, faculty, and practicing lawyers, all of whom have direct interests in the structure of legal education and the supply of new lawyers. The FTC has documented the ABA's history of using its accreditation monopoly to serve those interests, including a 1995 DOJ antitrust complaint, a consent decree, and a 2006 federal court finding that the ABA had "on multiple occasions . . . violated clear and unambiguous provisions" of that decree.[17]

### D. Texas, Florida, the District of Columbia, and Tennessee's Own Accreditation Initiatives Provide a Ready Roadmap

Tennessee need not act without precedent or infrastructure. Texas, Florida, and the District of Columbia have each moved in 2026 to reduce or eliminate ABA accreditation as a barrier to bar admission, and Tennessee is itself a founding partner of a new accreditation body built around exactly the outcome-focused criteria this Court is being asked to adopt.

The Texas Supreme Court's January 6, 2026, final approval of amendments to Rule 1 of the Rules Governing Admission to the Bar eliminated ABA reliance entirely, substituting direct court approval based on objective criteria, bar passage rates, employment outcomes, curriculum requirements, and compliance with applicable law, which the court itself administers.[18] The Texas order expressly provided that loss of ABA accreditation would not itself mandate removal from

the court's approved list, and that schools not accredited by the ABA could seek direct court approval.[19]

The Florida Supreme Court's January 15, 2026, order in In re Amendments to Rules Regulating the Florida Bar took a more gradualist approach: it amended the definition of "accredited law school" to include not only ABA-approved schools but any school approved by an accrediting agency recognized by the United States Department of Education and approved by the court.[20] Florida made explicit that graduates of ABA-accredited schools would continue to qualify, that law schools could continue to seek ABA accreditation, and that the court would contact the seven DOE-recognized institutional accreditors to assess their interest in accrediting law schools under outcome-focused standards.[21] The Florida amendments become effective October 1, 2026.

The District of Columbia Court of Appeals has gone further still on the comity question specifically. In an order filed March 24, 2026, effective April 24, 2026, the court amended D.C. App. R. 46(e)(3) to eliminate educational pedigree as a requirement for admission without examination entirely. Under the amended rule, any attorney who has actively practiced law as a member in good standing of a bar of a court of general jurisdiction in the United States for at least three of the five preceding years qualifies for D.C. comity admission.[21a] The prior requirement of an ABA-approved JD, or twenty-six credit hours of ABA law school study for non-ABA graduates, has been deleted from the comity pathway. The amendment does not ask where the applicant went to law school. It asks whether the applicant has practiced law. That is the individualized, practice-focused standard this comment proposes for Tennessee's Section 5.01.

Tennessee is particularly well-positioned to act either through direct court approval like Texas, or through accreditation. The Southern Association of Colleges and Schools Commission on Colleges ("SACSCOC"), one of seven regional accreditors currently recognized by the U.S. Department of Education, already accredits the University of Tennessee (UT) System's five campuses, including UT Knoxville's College of Law.[21b] SACSCOC evaluates institutions on educational quality, student outcomes, and institutional effectiveness, criteria that map directly onto the competency-focused accreditation standard for which this comment advocates. A framework that recognized SACSCOC-accredited law schools as satisfying Rule 7's educational requirement would impose no disruption to existing Tennessee law school graduates, no reduction in educational standards, and no loss of degree portability for students already within SACSCOC's regional coverage.

Tennessee has gone further still. The University of Tennessee System is a founding partner of the Commission for Public Higher Education ("CPHE"), a new accrediting body established by six public university systems with an explicit focus on student achievement, workforce readiness, and academic quality.[21c] CPHE has adopted accreditation standards and is pursuing formal recognition by the U.S. Department of Education, which it anticipates receiving no earlier than late 2027.[21d] This comment does not suggest that CPHE currently qualifies as a DOE-recognized accreditor for purposes of Rule 7, because it does not yet hold that recognition. The point is structural: Tennessee has already demonstrated, through its founding participation in CPHE, a commitment to outcome-

focused, state-responsive accreditation that prioritizes student achievement over administrative credentialing. It would be anomalous for this Court to continue ceding bar admission authority exclusively to a national private organization operating under different criteria when Tennessee is actively helping construct an outcome-focused regional alternative.

This Court should adopt, at a minimum, the Florida approach: end ABA exclusivity, recognize DOE-recognized regional accreditors and state bar authority approval as equivalent pathways, and establish a framework for direct court approval of schools based on outcome metrics. The proposed amendment to Rule 7, Section 2.02(a) has been revised to reflect this framework explicitly:

> (a) Any applicant seeking admission must have completed a course of instruction in and graduated with a J.D. Degree from: (1) a law school accredited by the ABA at the time of the applicant's graduation; (2) a Tennessee law school approved by the Board pursuant to section 17.01 of this Rule; (3) a law school accredited by a regional or national accrediting agency recognized by the United States Department of Education, provided the Board determines that such agency applies standards substantially equivalent to those required for Tennessee approval; (4) a law school approved by the bar admitting authority of the state or territory in which the law school is located, provided such authority applies standards the Board determines to be substantially equivalent to those required for Tennessee approval; or (5) a law school approved by the Court pursuant to criteria the Court shall establish, which shall include bar passage rates, employment outcomes, curriculum requirements, and compliance with applicable law.

Three objections raised by the ABA Council in its March 16, 2026, comment to this Court warrant direct response.

First, the ABA Council argues that ending ABA exclusivity would undermine the portability of law degrees, noting that approximately 30.9% of first-time Tennessee bar takers in July 2025 graduated from out-of-state ABA-accredited schools.[21e] This concern, while genuine, does not require exclusivity; it requires continued recognition. The proposed amendment expressly preserves ABA accreditation as a qualifying pathway (1); it adds pathways rather than eliminates them. Graduates of Vanderbilt, the University of Tennessee, and every other ABA-accredited school would continue to qualify for Tennessee bar admission on exactly the same terms as today, and their degrees would remain nationally portable. The portability concern is an argument against eliminating ABA recognition, not an argument against ending its monopoly.

Second, the ABA Council cites aggregate bar passage data showing 67% first-time passage for ABA graduates versus 23% for non-ABA graduates nationally in 2024.[21f] This aggregate comparison is misleading because it conflates several distinct categories under the "non-ABA" label: graduates of state-accredited schools such as those approved by the California Committee of Bar Examiners, graduates of truly unaccredited schools, and graduates of foreign law schools, each of which has substantially different outcomes. California Bar data show that graduates of California-accredited schools pass at rates far exceeding the 23% aggregate, which is driven primarily by unaccredited and foreign school graduates.[21g] The proposed amendment addresses this

directly: pathways (3) and (4) do not recognize truly unaccredited schools or foreign institutions. They recognize schools accredited by DOE-recognized agencies or approved by state bar admitting authorities that apply substantially equivalent standards, a qualification that the California Committee of Bar Examiners satisfies. This Court need not speculate: any applicant who passes the Tennessee UBE at 270 or higher, or a comparable out-of-state examination such as California's, has already demonstrated minimum competence. The bar passage data confirm the examination works. That is precisely the argument for relying on it.

Third, the ABA Council cites California's February 2025 bar examination redesign, which failed and required significant remediation, as evidence of the risks of states departing from nationally developed processes.[21h] That episode involved California's attempt to replace the NCBE-developed multiple-choice component of its hybrid examination with questions developed by a third-party vendor, while retaining California's own essays and performance tests. The redesign failed; California reverted to using NCBE-developed multiple-choice questions for that component while continuing to write its own essays and performance tests. Critically, on April 17, 2026, the California Committee of Bar Examiners recommended that the California Supreme Court adopt the NextGen UBE beginning in July 2028, subject to Board of Trustees and Supreme Court approval, reflecting California's trajectory toward the same national examination framework Tennessee already uses.[21i] The objection is inapposite in any event. This comment does not propose that Tennessee design or administer its own bar examination. Tennessee would continue administering the full UBE exactly as it does today. The reforms proposed here concern who may sit for the UBE or be admitted through comity, not what the UBE contains. Tennessee's bar examination infrastructure remains fully intact under every proposal advanced in this comment.

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[2] Order, In re Public Comments on Potential Regulatory Reforms to Increase Access to Quality Legal Representation, No. ADM2025-01403, at 4 (Tenn. Sept. 16, 2025) [hereinafter "Order"].

[3] Tenn. Sup. Ct. R. 7, Sec. 4.02; National Conference of Bar Examiners, List of UBE Jurisdictions, https://www.ncbex.org/exams/ube/list-ube-jurisdictions (last visited Apr. 27, 2026).

[4] Tenn. Sup. Ct. R. 7, Sec. 4.07(b); see also CLEAR Report and Recommendations 56-68 (July 27, 2025) [hereinafter "CLEAR Report"] (discussing bar examination as assessment of minimum competence).

[5] Tenn. Sup. Ct. R. 7, Sec. 2.02(d).

[6] Tenn. Sup. Ct. R. 7, Sec. 3.05.

[7] FTC Staff Comment re Proposed Amendment to Rule 1 of the Rules Governing Admission to the Bar of Texas, at 3, 6 (Dec. 1, 2025) [hereinafter "FTC Staff Comment"]. The comment was authorized by a vote of the Commission. Id. at 1 n.1.

[8] N.C. State Bd. of Dental Exam'rs v. FTC, 574 U.S. 494, 507 (2015).

[9] FTC Staff Comment at 4-5 (explaining that state action immunity requires active supervision and that passive delegation to the ABA raises anticompetitive concerns).

[10] ABA Standards and Rules of Procedure for Approval of Law Schools, Standards 603, 606 (2016-2017 ed.) (requiring full-time library director with faculty appointment and physical core collection spanning all reported federal and state court decisions, current regulations, and significant secondary works).

[11] ABA, Notice and Comment: Proposed Revisions to Standards and Rules of Procedure (Feb. 2024) (cover memorandum stating "Physical books are no longer required"); see also Standard 604 (2025-2026 ed.) (replacing enumerated core collection requirement with "reliable and efficient access" standard).

[12] ABA Treasurer's Report, Fiscal Year 2024, 111 ABA J. (Aug. 2025), https://www.abajournal.com/magazine/article/aba-treasurers-report-fiscal-year-2024 (reporting consolidated revenue from nearly 170,000 dues-paying members) (last visited Apr. 27, 2026).

[13] Id. (noting that in 1979, roughly half of all lawyers were ABA members).

[14] ABA Journal, New Dues Rates for ABA Members Announced (2024) (reporting that the ABA "adds more than 25,000 new members annually, but only retains about 53% of them").

[15] ABA Treasurer's Report, Fiscal Year 2024, 111 ABA J. No. 4 (Aug. 2025) (reporting consolidated revenue from nearly 170,000 dues-paying members totaled $42.7 million); American Bar Ass'n, Form 990: Return of Organization Exempt from Income Tax (Fiscal Year Ending August 31, 2024) (reporting total revenue of $119,070,500).

[16] N.C. State Bd. of Dental Exam'rs, 574 U.S. at 504.

[17] FTC Staff Comment at 6-7 (citing Competitive Impact Statement, United States v. Am. Bar Ass'n, No. 95-cv-1211 (D.D.C. June 27, 1995); United States v. Am. Bar Ass'n, 2006 U.S. Dist. LEXIS 42645, at *2 (D.D.C. 2006)).

[18] Final Approval of Amendments to Rule 1 of the Rules Governing Admission to the Bar of Texas, No. 26-9002, at 1 (Tex. Jan. 6, 2026) [hereinafter "Texas Order"].

[19] Id. paras. 6(d)-(e).

[20] In re Amendments to Rules Regulating the Fla. Bar and Rules of the Supreme Court Relating to Admissions to the Bar, No. SC2025-2064, at 5-6 (Fla. Jan. 15, 2026) [hereinafter "Florida Order"].

[21] Id. at 6.

[21a] In re Amendments to D.C. App. R. 46, No. M-295-26 (D.C. Ct. App. Mar. 24, 2026) (eff. Apr. 24, 2026) (amending Rule 46(e)(3) to replace ABA educational pedigree requirement with active practice standard of 3 of 5 years, deleting prior subsection (B) requiring ABA-approved JD or 26 ABA credit hours for non-ABA graduates).

[21b] Southern Association of Colleges and Schools Commission on Colleges, Directory of Member Institutions, https://sacscoc.org (confirming accreditation of the University of Tennessee system); University of Tennessee College of Law, About the Law School, https://law.utk.edu (last visited Apr. 27, 2026).

[21c] Commission for Public Higher Education, Mission and Purpose, https://cphe.org/missionandpurpose/ (last visited Apr. 27, 2026) (founding university systems include the State University System of Florida, the University System of Georgia, the University of North Carolina System, the University of South Carolina System, the Texas A&M University System, and the University of Tennessee System); University of Tennessee, Work to Learn Tennessee, https://tennessee.edu/academics/affordability/work-to-learn-tennessee/ (describing UT system workforce development and career-readiness initiatives).

[21d] Commission for Public Higher Education, Frequently Asked Questions, https://cphe.org/frequently-asked-questions/ (last visited Apr. 27, 2026) ("CPHE will submit an application for recognition to the U.S. Department of Education once it meets the regulatory requirements to do so, likely during late 2027.").

[21e] ABA Accreditation Council, Comment re No. ADM2025-01403, at 5 (Mar. 16, 2026) [hereinafter "ABA Council Comment"] (citing Tennessee Board of Law Examiners, July 2025 UBE Exam Statistics).

[21f] ABA Council Comment at 4 (citing National Conference of Bar Examiners, Persons Taking and Passing the 2024 Bar Examination by Source of Legal Education (2024)).

[21g] State Bar of Cal., Profile of California Law Schools, Executive Summary (2022) (reporting 2022 bar passage rates of 67% for ABA-accredited graduates, 21% for California-accredited graduates, and 9% for unaccredited graduates, demonstrating that the non-ABA aggregate is driven primarily by the unaccredited and foreign school categories).

[21h] ABA Council Comment at 4 (citing Reuters, "California's February Bar Exam Mess is Costing Millions to Clean Up" (June 6, 2025)); see also L.A. Times, "'Utterly Botched:' Glitchy rollout of new California bar exam prompts lawsuit and legislative review" (Feb. 28, 2025). California historically administered a hybrid examination combining NCBE-developed multiple-choice questions with California-written essays and performance tests. The February 2025 redesign replaced the NCBE multiple-choice component with questions developed by Kaplan; California reverted to NCBE-developed multiple-choice questions following the failed redesign while continuing to develop its own essays and performance tests.

[21i] Cal. Bar, CBE Recommends the NextGen Uniform Bar Exam and Consideration of a Future California Component (Apr. 17, 2026), https://www.calbar.ca.gov/news/cbe-recommends-nextgen-uniform-bar-exam-and-consideration-future-california-component. The CBE's recommendation goes to the Board of Trustees at its May 14-15, 2026 meeting before being submitted to the California Supreme Court. The final decision on exam format rests with the California Supreme Court.

## III. QUESTION 5: TENNESSEE SHOULD MODERNIZE ITS INTERSTATE ADMISSION RULES TO REFLECT THE REALITIES OF A MOBILE LEGAL PROFESSION

The Court asks whether it "should consider modifying requirements for admission to the Tennessee Bar for those licensed in other States to promote interstate practice and mobility."[22] It should. The current framework imposes barriers that are not, today, calibrated to any legitimate competency concerns, excludes qualified attorneys prepared to serve Tennessee communities with acute unmet legal needs, and contains internal inconsistencies that undermine its own justifications.

### A. A Licensed Out-of-State Attorney Is Not Less Qualified Than a Newly Admitted Tennessee Lawyer

Under Rule 7, Section 5.01(a)(3), an applicant for admission without examination must have been "primarily engaged in the active practice of law . . . for five of the seven years immediately preceding the date upon which the application is filed."[23] An attorney who passes the Tennessee bar examination, by contrast, may be admitted immediately upon completion of the Tennessee Law Course and satisfaction of character and fitness requirements, regardless of whether he has ever practiced law for a single day.

This asymmetry is not defensible on public protection grounds. An attorney licensed in California or any other State who has passed a bar examination has demonstrated minimum competence through a validated assessment. He has practiced under the Rules of Professional Conduct, subject to State Bar discipline and potential license revocation for inadequate representation. He has real-world experience, court appearances, client counseling, contract drafting, legal research, and negotiation, which a newly admitted Tennessee attorney does not have. Yet under current Rule 7, he must wait five of seven years (and hold an ABA JD) before Tennessee will consider admitting him without examination, while a newly minted Tennessee graduate with zero practice experience may be admitted immediately.

The five-year requirement does not measure competence; it measures time. Those are not the same thing. An attorney who has practiced part-time for two years in a specialized field may be more competent in that field than an attorney who has logged five years in general practice. An attorney who has served as in-house counsel for a large corporation, assisted in federal litigation, and advised on complex regulatory matters may be more prepared to serve Tennessee clients than the temporal threshold suggests or excludes. A blunt durational rule treats all practice as equivalent and all applicants as interchangeable, which is precisely what an individualized competency evaluation would not do.

### B. Rule 7's Internal Inconsistency Reveals That the Practice Requirement Is Not Calibrated to Competence

Rule 7, Section 2.02(d)(3), the provision governing non-ABA graduates seeking to sit for the Tennessee bar examination, requires the applicant to have been "primarily engaged in the active

practice of law . . . for three of the five years immediately preceding the date upon which the application is filed."[24] Rule 7, Section 5.01(a)(3), governing comity admission without examination, requires five of the seven preceding years.

The same rule therefore applies a lower practice threshold, three of five years, to the more demanding pathway, taking and passing the bar examination, than it applies to the less demanding pathway, admission without examination based on an established practice record. If three years of practice are sufficient to demonstrate the competence necessary to sit for the Tennessee bar as a non-ABA graduate, then five of seven years cannot be justified as a public protection measure for comity applicants who have already been licensed and practiced in another jurisdiction. The inconsistency reveals that the five-year comity requirement is not a competency measure; it is a market entry barrier, one whose primary beneficiaries are incumbent Tennessee practitioners rather than the public the rule purports to protect.

### C. Proposed Reforms: Individualized Evaluation, Tennessee Law Course, Provisional Licensure, and Practice Credit

This comment proposes the following framework as a replacement for the current durational practice requirement in Rule 7, Section 5.01(a)(3):

First, the mandatory Tennessee Law Course should serve as the primary mechanism for ensuring that out-of-state attorneys are familiar with Tennessee-specific law. That course already exists. Under Rule 7, Section 1.07, it is already mandatory for all comity applicants.[25] It is a 7.5-hour online course covering Tennessee civil procedure, evidence, appellate procedure, family law, property, torts, wills and estates, criminal law, professional responsibility, business associations, employment law, workers' compensation, and constitutional law.[26] It directly addresses the concern that out-of-state attorneys may lack familiarity with Tennessee-specific doctrine and procedure. It does so at a cost of fifteen dollars and approximately seven and a half hours of time. This is the proportionate, narrowly tailored response to the state-specific knowledge concern, not a five-year waiting period.

Second, the durational practice requirement should be replaced with an individualized evaluation of the applicant's practice history. An applicant with substantial experience, in-house counsel work, active litigation practice, public service, or other qualifying activity as defined in Rule 7, Section 5.01(c), demonstrates competence through that record. The Board's existing discretionary authority under Rule 7, Section 5.02 already permits consideration of "any evidence submitted by the applicant in an effort to demonstrate that the applicant possesses the knowledge, skill and abilities basic to competence in the profession."[27] That discretionary authority should be formalized and expanded as the primary evaluation mechanism, with the durational requirement eliminated or substantially reduced.

Third, provisional licensure should be available for applicants who cannot demonstrate sufficient practice experience through individualized evaluation. Under a provisional license, the applicant would practice under the supervision of an experienced Tennessee attorney for a defined period,

engage in mandatory pro bono service with a Tennessee legal aid organization, and complete any additional MCLE requirements the Board determines appropriate. Upon satisfactory completion, the provisional license converts to full admission. This approach is consistent with the alternative licensure models documented in the CLEAR Report and already in use in several states.[28]

Fourth, part-time practice must count toward any experience threshold. There is no principled basis for requiring full-time practice. An attorney who has practiced part-time for two years, appearing in court, advising clients, drafting contracts, or handling transactions, has engaged in the active practice of law within the meaning of Rule 7, Section 5.01(c). The nature and quality of the practice matter; the number of hours per week does not.

Fifth, pro bono service with a legal aid organization, whether in Tennessee or another jurisdiction, should count as qualifying active practice. This serves a dual purpose: it provides a pathway for attorneys who have not accumulated traditional practice hours, and it creates an incentive structure that channels attorneys toward the underserved communities where Tennessee's unmet legal needs are most acute. An attorney who has represented low-income clients in eviction proceedings, family law matters, public benefits cases, and immigration proceedings has demonstrated practical competence in exactly the practice areas most relevant to Tennessee's access-to-justice crisis, irrespective of how much time has passed.

The proposed amendments to Rule 7, Section 5.01(a) would read as follows:

> (1) meet the educational requirements imposed under sections 2.01 and 2.02 (as amended) of this Rule; (3) [Replace existing subsection] have demonstrated, to the Board's satisfaction, practice experience sufficient to establish competence to practice law in this jurisdiction, based on an individualized evaluation of the nature, duration, and breadth of the applicant's active practice, as defined in subsection (c) of this section; provided that (i) part-time practice shall count toward any experience determination; (ii) pro bono service with a legal aid organization recognized by the Tennessee Access to Justice Commission or equivalent authority shall count as active practice; (iii) applicants who do not satisfy the Board's experience determination may be admitted on a provisional basis pursuant to [new provisional licensure provision]; and (iv) all applicants admitted under this section shall complete the Tennessee Law Course pursuant to section 1.07 of this Rule prior to, or within ninety days of, admission.

### D. Tennessee's Own Emergency Practice Rule Confirms That Educational Pedigree Is Not a Competency Variable

Tennessee Supreme Court Rule 47, enacted in the aftermath of Hurricane Katrina and most recently activated in October 2024 following severe flooding in East Tennessee, permits any attorney authorized to practice law in another United States jurisdiction to provide free legal services to disaster-affected Tennessee residents, without pro hac vice admission and without any admission fee, assigned and supervised through an established nonprofit bar association or pro bono program.[29]

Rule 47 draws no distinction between attorneys who attended ABA-accredited law schools and those who did not. Its sole competency criterion is licensure in good standing in another United States jurisdiction. The rule contains no educational requirement. It does not ask whether the responding attorney's school was approved by the ABA, by a state bar authority, or by any other accrediting body. Whether or not any particular attorney who responded to the October 2024 activation attended a non-ABA law school is not known to this commenter and is not the point. The point is structural: in drafting and implementing Rule 47, this Court made a considered judgment that educational pedigree is not a relevant factor in determining whether an out-of-state attorney is sufficiently competent to practice Tennessee law and to appear in Tennessee courts. That judgment does not become less valid when the emergency declaration expires.

The commenter's California license and non-ABA education, which disqualify him from permanent Tennessee bar admission under Rule 7's ABA requirement, would fully qualify him to serve flood victims under Rule 47. He could appear in every court in the affected judicial districts, represent individual clients in eviction and family law proceedings, and provide the full range of state law legal services, provided that services were rendered free of charge and through a designated program. The legal needs of disaster-affected communities do not end when the emergency declaration does. The communities of East Tennessee affected by the September 2024 flooding still need legal assistance. The attorney competent to provide it under Rule 47 is equally competent to provide it under a permanent license.

### E. The Federal and State Practice Framework Creates a Jurisdictional Gap That Falls With Particular Force on Tennessee's Most Vulnerable Communities

Federal law authorizes attorneys licensed in any United States jurisdiction to practice immigration law, VA benefits, and other categories of federal matters anywhere in the country, without regard to where the attorney holds state bar admission. That authorization, which operates nationwide and is not unique to Tennessee, creates a jurisdictional gap when combined with the standard state court admission requirements that Tennessee and every other state maintain. The gap falls with particular force on Tennessee's immigrant and veteran communities, who rely most heavily on federal practice authorization and whose legal needs do not stop at the boundary between federal and state law.

A California-licensed attorney residing in Tennessee may represent Tennessee residents in federal immigration matters, proceedings before U.S. Citizenship and Immigration Services, the Executive Office for Immigration Review, and the United States Court of Appeals for the Sixth Circuit, and in federal benefits proceedings, pursuant to federal law and the rules governing practice before those federal bodies.[30] That same attorney cannot assist the client with a connected Tennessee state law matter: the eviction that followed the client's detention, the probate issue affecting the client's family, the family law proceeding in Tennessee General Sessions Court, or the criminal law matter that may impact their legal presence in this country.

The client who needs immigration representation and family law assistance is not two clients; she is one person with interconnected legal needs. The veteran whose federal benefits claim connects to a state court guardianship or housing matter faces the same gap. The artificial barrier between federal and state practice does not protect these clients; it leaves portions of their legal needs unaddressed by the attorney who already knows their situation. The solution is not to expand the scope of paraprofessional practice, as discussed below. The solution is to remove the barrier that prevents their qualified attorney from serving them across the full range of their legal needs. Reform of Rule 7's interstate admission requirements would accomplish this directly.

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[22] Order at 5.

[23] Tenn. Sup. Ct. R. 7, Sec. 5.01(a)(3).

[24] Tenn. Sup. Ct. R. 7, Sec. 2.02(d)(3).

[25] Tenn. Sup. Ct. R. 7, Sec. 1.07(a)(3); Tennessee Board of Law Examiners, Tennessee Law Course, https://bwp.tnble.org/?page_id=57 (last visited Apr. 27, 2026) [hereinafter "TLC Page"].

[26] TLC Page (listing course subjects including Tennessee Rules of Civil Procedure, Family Law, Property, Torts, Wills and Estates, Criminal Law, Professional Responsibility, Business Associations, Employment Law, Workers' Compensation, and Constitutional Law).

[27] Tenn. Sup. Ct. R. 7, Sec. 5.02.

[28] CLEAR Report at 79-90 (describing supervised practice and hybrid licensure pathways in Oregon, Utah, Nevada, and other states).

[29] Tenn. Sup. Ct. R. 47; Order Activating Rule 47 (Tenn. Oct. 28, 2024), https://tncourts.gov/press/2024/10/28/tn-supreme-court-activates-rule-allowing-flood-victims-accept-free-legal-services.

[30] See 8 C.F.R. Sec. 1292.1(a)(1) (authorizing practice before the Executive Office for Immigration Review by attorneys licensed in any U.S. jurisdiction); 38 C.F.R. Sec. 14.629 (authorizing accredited representatives and agents to practice before the Department of Veterans Affairs); Tenn. Sup. Ct. R. 8, RPC 5.5(c) (permitting out-of-state attorneys to provide legal services in Tennessee in matters in which they are authorized to practice under federal law).

## IV. QUESTIONS 3 AND 4: ALTERNATIVE PATHWAYS TO LICENSURE, INCLUDING LEGAL AID SERVICE, DESERVE SUPPORT

The Court asks whether there are less costly alternatives to the traditional three-year law school curriculum and whether it should consider alternative pathways for bar admission, such as apprenticeship or service with a legal aid organization.[31] This comment endorses both inquiries and addresses the legal aid service pathway specifically, as it is particularly well-suited to Tennessee's access-to-justice needs.

A pathway under which accumulated hours of supervised legal service with a recognized Tennessee legal aid organization, West Tennessee Legal Services, Legal Aid of Middle Tennessee and the Cumberlands, or Legal Aid of East Tennessee, could satisfy admission requirements, upon recommendation of the organization's supervising attorney, would accomplish several goals simultaneously. It would provide a structured, supervised practice environment in which an applicant demonstrates competence through actual legal work. It would channel attorneys toward the communities and practice areas where Tennessee's unmet legal needs are greatest. And it would create an incentive for attorneys who might otherwise not consider Tennessee practice to engage

with its legal aid system and, through that engagement, develop the Tennessee-specific knowledge and community connections that make them effective long-term practitioners.

The commenter would participate in such a program today. As a bilingual attorney with experience in immigration, business and real estate law, estate planning, and civil matters, he would welcome the opportunity to volunteer with a Tennessee legal aid organization on evenings and weekends. Under current rules, he cannot do so in any meaningful way without risking unauthorized practice of law under Tennessee Supreme Court Rule 8, RPC 5.5. A legal aid service pathway, combined with the reforms proposed in Section III above, would unlock that contribution immediately.

The CLEAR Report identifies public interest and legal aid service as a particularly valuable pathway for addressing both the access-to-justice crisis and the shortage of attorneys in underserved communities.[32] Recommendation 7 of the CLEAR Report specifically calls on state supreme courts to "champion public interest lawyering by considering innovative pathways to licensure" and to "support efforts to lower caseloads and support lawyer well-being" for public service attorneys.[33] A legal aid service admission pathway is a concrete implementation of that recommendation calibrated to Tennessee's specific needs.

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[31] Order at 4-5.

[32] CLEAR Report at 93-115.

[33] Id. at 16 (Recommendation 7.1).

## V. QUESTION 6: CAUTION IS WARRANTED ON PARAPROFESSIONAL EXPANSION; THE BETTER SOLUTION IS EXPANDING LICENSED ATTORNEY ACCESS

The Court asks whether legal services currently provided by lawyers could be competently provided by paraprofessionals, and if so, what limitations should apply.[34] This comment urges caution and recommends that the Court prioritize reforms that expand the supply of licensed attorneys, particularly through the interstate admission reforms proposed above, before expanding the scope of paraprofessional practice.

The access-to-justice problem that motivates this inquiry is real and serious. But the solution to a shortage of qualified attorneys is not to make legal services available from less qualified practitioners. It is to make qualified attorneys more accessible. The reforms proposed in Sections II and III of this comment would, if adopted, immediately expand the pool of licensed attorneys available to serve Tennessee residents without lowering the competency standards that protect the public.

The commenter has observed firsthand the harm that results when unregulated or inadequately supervised non-attorneys provide legal assistance to non-English-speaking clients. "*Notarios*" and paraprofessionals who hold themselves out as capable of handling immigration matters, often with

genuine intent to help, regularly cause serious, sometimes irreversible harm: applications filed prematurely, incorrect pathways pursued, procedural defaults that cannot be undone, and clients placed in removal proceedings as a consequence of a filing that should never have been made.[35] The complexity that lies beneath the surface of even apparently routine immigration and housing matters is not reliably visible to practitioners who lack legal training and the professional obligation of continuing competence.

To the extent the Court does authorize any paraprofessional role, this comment supports the framework proposed by attorney William P. York in his March 16, 2026 comment: any paraprofessional role must be structured as supervised assistance to licensed attorneys, not as an independent practice pathway; attorney supervision must be genuine and documented, not nominal; and the lines of attorney responsibility for all work performed must be clear.[36] Any such framework should also include robust enforcement mechanisms for unauthorized practice of law, given the documented harm caused by unsupervised non-attorney practice in immigrant communities.

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[34] Order at 5.

[35] See, e.g., Legal Services Corporation, The Justice Gap: The Unmet Civil Legal Needs of Low-Income Americans 48 (Apr. 2022) (documenting the extent of unmet legal need and the inadequacy of non-attorney assistance in complex legal matters).

[36] William P. York, Public Comment, No. ADM2025-01403, at 5-6 (Mar. 16, 2026).

## VI. QUESTION 7: NON-LAWYER OWNERSHIP OF LAW FIRMS SHOULD NOT BE PERMITTED

The Court asks whether it should "modify, reduce, or eliminate regulations prohibiting non-lawyer ownership of law firms or fee sharing with non-lawyers."[37] It should not. Tennessee Rule of Professional Conduct 5.4 should be preserved in its essential form.

The prohibition on non-lawyer ownership is not a vestige of professional protectionism. It is the structural guarantee that a lawyer's professional judgment, the advice he gives, the cases he accepts or declines, the settlements he recommends, the time he devotes to a client's matter, remains governed by his duties to the client and the legal system, not by the financial interests of an outside investor. When a law firm is owned by a private equity fund, a publicly traded corporation, or another non-lawyer entity, the lawyer answers to two masters: his professional obligations to his client, and the financial expectations of his owners. Those obligations are not always aligned, and when they diverge, the client, particularly the low-income client who cannot evaluate the quality of representation or easily obtain alternative counsel, bears the risk.

The experience of the American medical profession provides a documented cautionary parallel. The entry of private equity into medical practice has been associated with consolidation, reduced time per patient, prioritization of profitable procedures over patient need, and, in some cases, demonstrable declines in care quality.[38] Medical patients and legal clients share a common

vulnerability: they often cannot accurately evaluate the quality of the service they receive at the time it is provided, and the harm from inadequate service may not be apparent until it is irreversible. The legal profession's independence rules exist precisely because of this information asymmetry. They should not be dismantled in the name of access to justice when the reforms proposed above would expand access without compromising independence.

The legal profession's own recent experience with ownership reform reinforces this caution. Arizona eliminated its ban on non-lawyer ownership of law firms in 2021, becoming the first state to do so in the modern era.[39] The Arizona experience remains nascent, but early evidence suggests that the anticipated access-to-justice benefits have not materialized at scale, while concerns about lawyer independence and consumer protection have grown more acute as the nature of the entities seeking ownership stakes has become clearer. Arizona's experiment may ultimately yield useful data, but Tennessee need not conduct its own experiment when the reforms proposed in Sections II and III of this comment offer a proven, independence-preserving path to expanding access.

This comment therefore supports preserving Rule of Professional Conduct 5.4 and urges the Court to address the access-to-justice crisis through the mechanisms proposed in Sections II and III: ending ABA exclusivity, modernizing comity requirements, and creating legal aid service pathways that expand the supply of qualified, independent, licensed attorneys.

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[37] Order at 5.

[38] See, e.g., Zirui Song & Leemore Dafny, The Growing Role of Private Equity in Healthcare, JAMA 327(18), at 1765 (2022) (documenting association between private equity acquisition of medical practices and changes in care patterns and costs); see also York Comment at 2 (Mar. 16, 2026) (noting that "outside ownership necessarily carries with it pressures relating to revenue, efficiency, market share, growth, staffing, case selection, and return on investment").

[39] See Joel Truett, Goodbye Rule 5.4: Legal Ethics Change in Arizona, Ariz. St. L.J. (Apr. 19, 2021); cf. William P. York, Public Comment, No. ADM2025-01403, at 2 (Mar. 16, 2026) (arguing that outside ownership creates structural conflicts between commercial pressures and client-centered representation).

## VII. CONCLUSION

The Court framed this proceeding around a genuine tension: the goal of lowering barriers to the legal profession must be balanced against the goal of ensuring competent representation and safeguarding the public. This comment has argued throughout that this tension is resolvable; the reforms most urgently needed are not those that dilute competency standards, but those that remove barriers that never served a competency purpose in the first place.

Ending Tennessee's exclusive reliance on ABA accreditation does not lower the quality of Tennessee's bar or compromise public protection. It removes a gatekeeping function from a private organization that represents approximately 13 percent of American attorneys, has a documented history of anticompetitive conduct, and whose standards have demonstrably inflated the cost of legal education without producing better lawyers. The bar examination, the output measure, remains fully intact. And Tennessee already has the regional accreditation infrastructure, through

SACSCOC today and potentially through CPHE in the future, to implement outcome-focused alternatives without starting from scratch.

Modernizing the comity rules does not reduce the rigor of Tennessee's admission standards. It replaces a blunt durational barrier with the individualized evaluation and targeted state-specific training that the public protection rationale actually requires, through the existing Tennessee Law Course. The attorney who passes that course, completes a character and fitness review, and demonstrates a record of competent practice is as well-prepared to serve Tennessee clients as an attorney who simply waited five years.

Creating legal aid service pathways does not compromise the integrity of the profession. It channels attorneys toward the communities the Court most wants to serve, under supervision and with accountability structures that protect clients throughout the process.

The commenter is one attorney. But he represents a category of attorney that current Rule 7 systematically excludes: qualified, experienced, bilingual practitioners who attended non-ABA law schools, passed rigorous bar examinations, and are prepared to serve underserved communities, not in some future regulatory landscape, but now, if the rules permitted it. This Court has already determined, through Rule 47, that such attorneys are competent to serve Tennesseans in a crisis. The Tennesseans who need legal help with housing, immigration, family law, and public benefits are in a crisis that did not begin with a flood and will not end with an emergency order. They can be served, starting now, by attorneys who are already here.

This comment respectfully urges the Court to adopt the reforms proposed herein.

Respectfully submitted,

Rene Galicia

René Galicia, Esq.
California State Bar No. 349282
10615 Chapman Highway #370
Seymour, TN 37865
rene@galicia.law
April 28, 2026

**MaryBeth Lindsey**

**To:** appellatecourtclerk
**Subject:** RE: Public Comment — No. ADM2025-01403 — René Galicia, Esq., CA Bar No. 349282

**From:** Rene Galicia, Esq. <rene@galicia.law>
**Sent:** Tuesday, April 28, 2026 6:15 PM
**To:** appellatecourtclerk <appellatecourtclerk@tncourts.gov>
**Subject:** Public Comment — No. ADM2025-01403 — René Galicia, Esq., CA Bar No. 349282

**Warning: Unusual sender** <rene@galicia.law>
You don't usually receive emails from this address. Make sure you trust this sender before taking any actions.

Dear Clerk Hivner,

Please find attached the public comment of René Galicia, Esq., California State Bar No. 349282, submitted in response to the Court's September 16, 2025 Order soliciting public comments on potential regulatory reforms to increase access to quality legal representation, No. ADM2025-01403.

The comment addresses Questions 1, 2, 5, 6, and 7 of the Court's Order and proposes specific amendments to Tennessee Supreme Court Rule 7, Sections 2.02(a) and 5.01(a).

Respectfully submitted,

Rene Galicia, Esq.
CA Bar No. 349282
Phone: 213-222-6240
Email: Rene@Galicia.Law

**MaryBeth Lindsey**

**From:** William Metzinger <wmetzinger@gmail.com>
**Sent:** Tuesday, April 28, 2026 3:47 PM
**To:** appellatecourtclerk
**Subject:** Comment re: Regulatory Reforms, No. ADM2025-01403 – Comment on MJP and lawyer mobility reform (Question 5)



To the Tennessee Supreme Court:

I write today to support the views expressed in the comment submitted to the Court on April 21, 2026, by Brian Faughnan and Lucian Pera.

In addition to the proposed Rule 5.5 reforms, I respectfully request the Court consider targeted and related changes to Tennessee Supreme Court Rule 7 governing admission by comity (admission on motion). Two aspects of the current framework merit particular attention:

**(a) Indefinite comity prohibition tied to the 180-day filing for in-house admission**

The current rule's apparent consequence—that failure to meet the 180-day deadline for filing an application for in-house admission may result in a permanent bar to comity admission—raises concerns of proportionality, clarity, and policy coherence (See Tenn. Sup. Ct. R. 7, Section 10.01(d)(3)).

First, the absence of a defined endpoint for this restriction is difficult to reconcile with how the profession addresses far more serious misconduct. Even in cases involving significant ethical violations—such as client fund misappropriation or other serious breaches—disciplinary systems typically impose determinate sanctions with defined reinstatement pathways (often in the range of several years). By contrast, a procedural lapse in timing can effectively result in a lifetime restriction on admission by comity.

Second, the nature of the consequence appears misaligned with the underlying conduct. The remedy directs the applicant toward admission by examination, which is framed as a competency-based pathway. Yet the triggering issue is not a demonstrated lack of competence, but rather noncompliance with a filing deadline. This creates a conceptual mismatch: the "penalty" operates in the domain of competence rather than as a proportional regulatory consequence (such as a monetary penalty, late fee, or discretionary waiver standard).

Third, the rule would benefit from clearer articulation. It is not readily apparent whether the prohibition is intended to be absolute, whether any discretionary relief exists, or how the Court or Board of Law Examiners may evaluate mitigating circumstances.

For these reasons, I respectfully request that the Court consider:

- Clarifying the scope and duration of any disqualification tied to the 180-day deadline;
- Providing a defined path to eligibility after a specified period or upon satisfaction of objective criteria; and/or
- Replacing or supplementing the current consequence with a more proportionate mechanism (e.g., discretionary review, late filing provisions, or financial penalties).

**(b) Consideration of a COVID-related amnesty or equitable relief period**

The Court may also wish to consider a limited amnesty or equitable relief mechanism addressing applicants affected by the COVID-19 period.

As reflected in broader legal and administrative contexts, courts and agencies have recognized that the pandemic created extraordinary disruptions affecting mobility, employment transitions, access to information, and administrative processes. During that period, many attorneys relocated across jurisdictions under unusual and often urgent circumstances, while licensing systems operated with reduced capacity or significant delays.

Analogous reasoning can be found in cases such as *Kwong v. United States,* 179 Fed. Cl. 382 (2025), where courts have acknowledged the need to evaluate procedural compliance in light of extraordinary external conditions. While not directly controlling in this context, the principle is instructive: rigid application of procedural deadlines may warrant reconsideration where systemic disruption materially impaired compliance.

A narrowly tailored amnesty period—whether time-limited or tied to defined pandemic dates—could allow otherwise qualified applicants to seek admission by comity upon a showing of good cause related to COVID-era disruptions. Such an approach would:

- Address fairness concerns for a discrete and identifiable group;
- Promote lawyer mobility at a time when the Court has recognized the need to expand access to legal services; and
- Avoid imposing long-term structural consequences based on short-term, extraordinary conditions.

The Court's current review presents a meaningful opportunity to align Tennessee's licensing framework with modern legal practice while maintaining appropriate safeguards for the public. The proposed Rule 5.5 reforms represent a significant step in that direction, and targeted adjustments to Rule 7 would further advance those goals by ensuring that admission pathways are clear, proportionate, and responsive to real-world conditions.

I appreciate the Court's consideration of these comments.

Kind regards,

Bill

Bill Metzinger
wmetzinger@gmail.com
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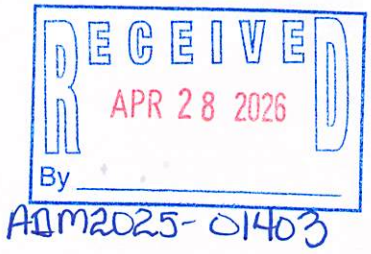
April 27, 2026




Submitted via email: appellatecourtclerk@tncourts.gov

James Hivner, Clerk
Tennessee Supreme Court
Re: No. ADM2025-01403 Public Comments
100 Supreme Court Building
401 7th Avenue North
Nashville, TN 37219-1307

IN RE: Public Comments on Potential Regulatory Reforms to Increase Access to Quality Legal Representation (Court Order ADM2025-01403)

Dear Clerk Hivner and Honorable Justices of the Tennessee Supreme Court,

Harris Shelton Hanover Walsh, PLLC respectfully submits this comment in response to the Court's Order dated September 16, 2025 soliciting written comments on potential regulatory reforms, including Question (7): whether the Court should "modify, reduce, or eliminate regulations prohibiting non-lawyer ownership of law firms or fee sharing with non-lawyers." We oppose any modification to Rule 5.4 that would permit non-lawyer ownership of law firms or fee sharing with non-lawyers.

We share the Court's concern about the justice gap and attorney shortages described in the Order, including unmet civil legal needs among low-income residents and the challenges faced by "legal desert" communities. However, allowing nonlawyer to investment in law firms is a structural change with irreversible consequences that should not be adopted absent clear, compelling, Tennessee-relevant empirical evidence that (a) it measurably improves access to justice and (b) it does so without increasing harm to clients, courts, or the integrity of the profession.

Non-lawyer ownership threatens lawyer independence. The duty of professional judgment, loyalty, and confidentiality cannot be subordinated to outside investors' commercial interests. Even robust compliance programs cannot fully neutralize conflicts that arise when non-lawyer owners influence case selection, litigation strategy, settlement decisions, or revenue allocation. Rule 5.4's structural separation protects the public by ensuring that clients' interests, not return on capital, drive legal advice.



6060 Primacy Parkway, Suite 100 Memphis, TN 38119 ph. 901.435-0143 (d) 901-525.1455 (o)

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Even under "non-controlling" or "limited" frameworks, nonlawyer financial interests predictably create pressure to: (1) prioritize revenue and growth over client-centered outcomes; (2) standardize and scale services in ways that may not fit individualized legal needs; (3) influence staffing, budgeting, and case strategy in ways that compromise quality; and (4) encourage settlement or litigation decisions driven by business objectives rather than client interest and professional judgment.

Non-lawyer ownership risks exacerbating conflicts and undermining fiduciary duties. Equity holders who are not bound by the Rules of Professional Conduct may press for cross-selling, data monetization, or volume-driven practices that weaken individualized counsel. Permitting fee sharing with non-lawyers can create incentives to steer clients to particular service vendors or to prioritize short-term revenue over long-term client outcomes. These pressures are incompatible with the profession's duties of independence, confidentiality, candor to tribunals, and avoidance of conflicts.

The proposed relaxation is unlikely to meaningfully close the access-to-justice gap. Jurisdictions experimenting with non-lawyer ownership have not shown clear, scalable evidence that such models reduce prices for low- and moderate-income consumers across core need areas such as family, housing, and consumer law. Market entry often targets higher-margin or automated segments, while complex, low-fee matters remain underserved. Tennessee can better advance affordability through alternatives the Court has already invited comment on—such as exploring less costly educational pathways, bar admission reforms, and careful deployment of paraprofessionals in defined, supervised roles—without sacrificing Rule 5.4's essential safeguards.

Existing tools can responsibly expand access without compromising independence: limited scope representation, innovation in law practice technology under lawyer control, streamlined licensure for experienced out-of-state attorneys, and court-sponsored pro bono and self-help initiatives. These approaches preserve the non-delegable duties lawyers owe to clients and courts while enabling efficiency and scale. If the Court elects to pilot reforms, any such reforms should exclude changes to ownership or fee sharing and, instead, focus on supervised service models that maintain lawyer accountability.



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Finally, public confidence in the justice system depends on the perception—and reality—that lawyers are guided by professional obligations rather than investor priorities. Eroding Rule 5.4 would blur that line, invite complex enforcement challenges, and risk harm to vulnerable consumers who often cannot detect subtle conflicts embedded in business structures.

For these reasons, Harris Shelton Hanover Walsh, PLLC respectfully urges the Court to retain Tennessee's existing prohibitions on nonlawyer ownership of law firms and fee sharing with nonlawyers. We appreciate the Court's focus on ensuring that all Tennesseans have access to affordable quality legal services while also ensuring attorney competence and safeguarding the public. The Court can—and should—pursue access-to-justice reforms that expand service capacity and reduce costs without compromising professional independence or introducing profit-driven incentives that threaten client loyalty, confidentiality, and public trust. Thank you for considering these comments and for the opportunity to be heard in this important process. Please accept this letter for filing in Docket No. ADM2025-01403 and direct any correspondence to the undersigned at 6060 Primary Parkway, Suite 100, Memphis, TN 38119.

HARRIS SHELTON HANOVER WALSH, PLLC

Sincerely,

Christopher S. Campbell, Chief Manager

**MaryBeth Lindsey**

**To:** appellatecourtclerk
**Subject:** RE: Public Comment on Court Order ADM2025-01403


**From:** Finnely King-Scoular <finn@harrisshelton.com>
**Sent:** Tuesday, April 28, 2026 10:40 AM
**To:** appellatecourtclerk <appellatecourtclerk@tncourts.gov>
**Cc:** Christopher Campbell <ccampbell@harrisshelton.com>; Chad Roberts <croberts@harrisshelton.com>
**Subject:** Public Comment on Court Order ADM2025-01403

ADM2025-01403

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Good morning,

Please see attached for the public comments of Harris Shelton Hanover Walsh, PLLC, located in Memphis, Tennessee, in response to Court Order ADM2025-01403.

Thank you for your service to the people of Tennessee.

Finn King-Scoular | Legal Assistant

harris|shelton

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James Hivner, Clerk

Re: Regulatory Reform

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appellatecourtclerk@tncourts.gov

VIA EMAIL

April 28, 2026

Tennessee Law Professor Comment in Response to Tennessee Supreme Court Order No. ADM2025-01403

We the undersigned Tennessee law professors respectfully submit this public comment in response to the Supreme Court of Tennessee Order No. ADM2025-01403.

1. Recognition of the access to justice and legal deserts crises

First, we commend and celebrate this Court for taking this step and starting this important discussion. The Court is absolutely correct that America faces a significant and worsening access to justice crisis. The Legal Services Corporation (LSC) has released four different *Justice Gap* studies (2005, 2009, 2017, and 2022) that clearly establish the deterioration.[1] The 2005 Report notes that "[o]nly a very small percentage of the legal problems experienced by low-income people (one in five or less) are addressed with the assistance of . . . [a] lawyer."[2] By 2022, LSC reported that "[l]ow-income Americans did not receive any legal help or enough legal help for 92% of the problems that substantially impacted their lives in the past year."[3]

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[1] For links to all five reports, see LEGAL SERV. CORP., THE JUSTICE GAP REPORT (2022), https://justicegap.lsc.gov/resource/section-1-introduction/ [https://perma.cc/B3H6-C5TL].

[2] Legal Serv. Corp., Documenting the Justice Gap in America 4 (Sep. 2005), https://lsc-live.app.box.com/s/zb2hn2xm0ewmsubckbtpo9jjegxruwfp [https://perma.cc/B4UX-UXXF].

[3] Legal Serv. Corp., *supra* note 1.

Nor is the issue limited to the poor. Middle-income Americans are increasingly priced out of the market for legal services. Rebecca Sandefur estimates that more than one hundred million Americans experience one or more civil justice issues at any given time.[4] Survey results from a mid-sized city suggest that 66% of Americans encounter at least one civil justice issue in an eighteen-month period, and those same Americans use a lawyer's help just 16% of the time.[5] Small businesses fare similarly, with one study finding that 60% of small business owners lack a lawyer's assistance with their significant legal issues.[6]

The problem is shown most clearly in the rise of the *pro se* litigant. At least one party appears unrepresented in a whopping 76% of state-court civil cases.[7] In courts that handle issues like debt collection, family law, or eviction—90% or more of the cases feature at least one *pro se* litigant.[8] The upshot is quite embarrassing for a country founded on "equal justice under law." In 2022, the *World Justice Project's Rule of Law Index* ranked the United States 36th in the world for civil justice, tucked between Barbados and Mauritius.[9]

The problem of legal deserts is likewise serious and growing. The small town practice of law is in significant distress, and this leaves many Americans without access to a lawyer or other legal resources.[10] A full 20 Tennessee counties have fewer than 10 lawyers.[11]

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[4] *See* Rebecca L. Sandefur, *Money Isn't Everything: Understanding Moderate Income Households' Use of Lawyers' Services*, *in* Middle Income Access to Justice 222, 223 (Michael Trebilcock, Anthony Duggan & Lorne Sossin, eds., 2012).

[5] *See* Rebecca L. Sandefur, Am. Bar. Found., Accessing Justice in the Contemporary USA: Findings from the Community Needs and Services Study 3, 6, 14 (2014), http://www.americanbarfoundation.org/uploads/cms/documents/sandefur_accessing_justice_in_the_contemporary_usa._aug._2014.pdf [https://perma.cc/966A-JYV4].

[6] *See* LegalShield, The Legal Needs of Small Business: A Research Study Conducted by Decision Analyst Commissioned by LegalSheild 4 (2013), https://avonintegrativehealth.com/storage/app/media/_Client/patient_education/1010711-legal-needs-of-small-businesses.pdf [https://perma.cc/V5CJ-FTBH].

[7] Ralph Baxter, *Dereliction of Duty: State-Bar Inaction in Response to America's Access-to-Justice Crisis*, 132 Yale L.J. F. 228, 230 (2022).

[8] *Id.* at 230 n.9.

[9] World Just. Project, Rule of Law Index 10, 34 (2022), https://worldjusticeproject.org/sites/default/files/documents/WJPIndex2022.pdf [https://perma.cc/A3GU-CEPV].

[10] *See* Elizabeth Chambliss, *Rural Legal Markets*, 12 Tex. A&M L. Rev. 961 (2025); Lisa R. Pruitt, Amanda L. Kool, Lauren Sudeall, Michele Statz, Danielle M. Conway, & Hannah Haksgaard, *Legal Deserts: A Multi-State Perspective on Rural Access to Justice*, 13 HARV. L. & POL'Y REV. 15 (2018).

[11] https://www.americanbar.org/content/dam/aba/administrative/news/2020/07/potlp2020.pdf at p. 14.

The Court is correct to note that these issues are serious and growing and have a detrimental effect on public belief in our justice system.[12] We are thrilled that the Court has recognized these problems and is seeking solutions.

2. Order Items 1-3 Addressing Law Schools

We have decided to avoid any appearance of a conflict of interest and will thus refrain from comment on these issues.

3. Order Items 4, 5, 6, and 7

We note that many American states are currently engaged in some or all of these reforms, and a number more are considering changes. Overall, we have been particularly impressed with the approaches of Arizona and Utah, who have used a combination of different strategies and have been unafraid to act boldly and experiment. Acting individually, these reforms will not solve the crisis described above, but any progress should be welcome and taken together, such reforms should prove helpful.

Item four ("Whether the Court should consider adopting alternative pathways for admission to the Tennessee Bar") is being tried in multiple states. At least six states (California, Maine, New York, Vermont, Virginia, and Washington) have some sort of apprenticeship program[13] and another six states are considering other alternative pathways into the practice of law (Arizona, Nevada, Oregon, South Dakota, Wisconsin, and Vermont).[14] Many more states are considering such a move. As of yet the uptake in these

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[12] Benedict Vigers & Lydia Saad, *Americans Pass Judgment on Their Courts*, GALLUP, December 17, 2024, https://news.gallup.com/poll/653897/americans-pass-judgment-courts.aspx (Survey showing a "Americans' confidence in their nation's judicial system and courts dropped to a record-low 35% in 2024," representing a "sharp decline in confidence in" the American judiciary that "is among the largest Gallup has ever measured").

[13] *See, e.g.*, Karen Sloan, *More States Consider How to License Lawyers*, Reuters, https://www.reuters.com/legal/government/more-states-reconsider-how-license-lawyers-2023-04-10 (Apr. 10, 2023); N.Y. Comp. Codes R. & Regs. tit. 22, § 520.4 (2024), ;

[14] Walter Olson, *States Pursue Alternative Licensing Pathways for Lawyers*, Cato at Liberty (Mar. 28, 2024), https://www.cato.org/blog/states-pursue-alternative-licensing-pathways-lawyers (noting that several states, including Arizona, Nevada, Oregon, South Dakota, Wisconsin, and Vermont, are considering alternative pathways to legal licensure). Lauren Curtis, *Arizona Lawyer Apprentice Program (ALAP)*, State Just. Inst. (Jan. 1, 2026), ; Laura Bagby, *Nevada Supreme Court Approves Plan to Proceed with Developing Alternative Attorney Licensing Pathway in State*, 2Civility (Sept. 23, 2024), ; *Admission to the Practice of Law in Wisconsin*, Wis. Ct. Sys., ; *Law Office Study Program*, Vt. Judiciary, .

programs has been small, and the study of their full impact is ongoing, but that does not mean they are not worth implementing.[15]

Item five ("Whether the Court should consider modifying requirements for admission to the Tennessee Bar for those licensed in other States to promote interstate practice and mobility") seems like a straightforward way to increase the provision of legal services in the State, especially if any changes are reciprocal. One of the main issues of changing the route to becoming a lawyer in this state is that other states may not allow licensed Tennessee lawyers to waive into their bar if our entry requirements change significantly. Tennessee could work with other states to ease movement among reform minded states.

Issue six ("Whether any legal services currently provided by lawyers could be competently provided by paraprofessionals") is likewise being tried in multiple states. Arizona, Minnesota, New Hampshire, Oregon, and Utah all have some form of licensed paralegal program, and such programs are under consideration in many other states.[16]

Alaska, Arizona, and Utah have likewise pioneered justice worker programs, where legal aid or specific legal non-profits train and supervise non-lawyers in providing services in specific areas like domestic violence or debt collection.[17] We are particularly supportive of

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[15] *Supreme Court Approves Alternative Pathways to Lawyer Licensure in Washington State*, Wash. Cts. (Mar. 15, 2024), https://www.courts.wa.gov/newsinfo/?fa=newsinfo.display_detail&newsId=50389 (approving alternative pathways to licensure based on findings that the bar exam limits access to the profession and that new pathways may help address attorney shortages and expand legal services); *see also* Or. State Bar, *Alternatives to the Bar Exam: Final Report of the Alternatives to the Bar Exam Task Force* (2018), https://www.osbar.org/_docs/resources/AltPathways/TFReport.pdf (proposing an apprenticeship-style pathway to licensure aimed at reducing barriers to entry and improving access to justice, while recognizing varied outcomes across existing state programs).

[16] *How States Are Using Non-Lawyers to Address the Access to Justice Gap*, Am. Bar Ass'n (Sept. 2, 2022); Tom Jarvis, *Newly Enacted Paraprofessional Pilot Program Helps Promote Access to Justice*, N.H. Bar Ass'n (July 19, 2022), https://www.nhbar.org/newly-enacted-paraprofessional-pilot-program-helps-promote-access-to-justice/ (noting that several states have adopted licensed paralegal or limited-license legal practitioner programs, with additional states considering similar models). *See also* T.E. Mootz III, *Independent Paralegals Can Fill the Gap in Unmet Legal Need*, 4 U.D.C. L. Rev. 67 (2000), https://digitalcommons.law.udc.edu/cgi/viewcontent.cgi?article=1204&context=udclr (arguing that independent paralegals can expand access to justice by providing lower-cost legal services and addressing unmet demand in the civil legal system)

[17] Inst. for the Advancement of the Am. Legal Sys., *The Diverse Landscape of Community-Based Justice Workers* (Feb. 22, 2024), https://iaals.du.edu/news/diverse-landscape-community-based-justice-workers; Cayley Balser et al., *Leveraging Unauthorized Practice of Law Reform to Advance Access to Justice*, 18 Law J. Soc. Just. 66 (2023) (arguing that community-based justice workers expand access to "preventative civil justice problem-solving" for underserved populations); *see also* Matthew Burnett, Rebecca L. Sandefur & James Teufel, *Analysis of the Social and Economic Impact of the Alaska Community Justice Worker Program (2021–2025)* (Am. Bar Found. 2025), https://www.americanbarfoundation.org/wp-

justice worker programs. The advantage to these programs is that a) they do not require building out a new licensure and training regime; b) they build off of existing community legal resources; c) they act as a force multiplier to underfunded providers of legal services to the poor like legal aid; d) they can be aimed at rural counties or specific tasks; and e) they are the reform least likely to undercut struggling small firm, main street lawyers.

Issue seven "Whether the Court should modify, reduce, or eliminate regulations prohibiting non-lawyer ownership of law firms or fee sharing with non-lawyers") is currently underway in Washington, D.C., Arizona, and Utah. Utah and Arizona have separately regulatory regimes for these providers, and the results from the Utah "regulatory sandbox" have been promising:

> Sandbox entities have served 24,000 unduplicated consumers and provided over 40,000 legal services. Most of those services (87%) have been provided by lawyers working as employees within new legal businesses. Thirteen percent of services have been provided by nonlawyers. Sandbox entities are primarily serving individual consumers and small businesses with an average cost of service of $162. Small business services make up the majority delivered to date (40%). Military benefits (21%), immigration (13%), end of life planning (6%), and accident/injury (6%) round out the top five areas of service.[18]

In sum, we praise the Court for opening this discussion and think that some combination of items 4-7 would be helpful in addressing the state's unmet legal needs.

4. The Court Should Also Consider More Direct Supervision of Tennessee Courts to Ameliorate the Growth in *Pro Se* Litigation

We would encourage the Court to consider other options as well. In particular, the Tennessee Supreme Court has broad authority to supervise the courts of this State. This authority is both conferred by statute and inherent under the Tennessee Constitution. The Tennessee Constitution vests the "judicial power of this state . . . in one Supreme Court." As the "supreme judicial tribunal of the state," the Court "has broad inherent authority over the Tennessee judicial system."[19]

Accordingly, the General Assembly has recognized that "to ensure the harmonious, efficient, and uniform operation of the judicial system of the state, the supreme court is

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content/uploads/2025/11/ABI-Alaska-Community-Justice-Brief-FIN.pdf. (finding that Alaska's community justice worker program dramatically expanded legal service capacity, particularly in rural communities, and generated significant economic returns).

[18] Letter from the Utah Supreme Court to the Utah State Bar, March 28, 2023, https://utahinnovationoffice.org/wp-content/uploads/2024/01/3.-Letter-to-Utah-State-Bar-3.28.23.pdf.

[19] In re Bell, 344 S.W.3d 304, 313 (Tenn. 2011).

granted and clothed with general supervisory control over all the inferior courts of the state."[20] The Court has "a broad conference of full, plenary and discretionary power" under Tennessee law.[21]

Under these powers this Court should consider adopting court and rules-based solutions to our State's access to justice crisis. Such reforms could be in addition to the reforms listed in the Order, or in lieu of, and would likely represent an easier and more direct route to amelioration.

There are multiple different reforms that could help. IAALS, the Institute for the Advancement of the American Legal system, has undertaken several different projects that could serve as a model, including their Uncomplicated Courts Initiative[22] and their Cases Without Counsel project.[23] The State Justice Institute has likewise compiled a list of promising reforms to help Americans engaged in Self-Represented Litigation.[24] One of the projects they list is currently underway in Hamilton County, Tennessee: an effort to create an online dispute resolution system for medical debt.[25] Likewise, this Court's self-help center[26] and the creation of uniform pleadings[27] for issues like divorce or domestic violence have already made a huge difference for ordinary Tennesseans and should be expanded.

We recommend that this Court create a taskforce to consider new, statewide Rules for cases in civil sessions court, and also possibly for any family, child support, domestic violence, or probate matters that regularly feature unrepresented litigants. While there are many approaches this taskforce might take, there are three simple things this Court could order that would make a massive difference:

1) This Court could order that when one or both of the sides to a civil litigation is unrepresented, the Sessions Court judges have a duty to explain the process to the

---

[20] Tenn. Code Ann. § 16-3-501; see also Tenn. Att'y Gen. Op. 87-02 (Jan. 7, 1987) (recognizing that the "supervisory authority over the Tennessee judicial system is a part of the inherent power of the Tennessee Supreme Court").

[21] Tenn. Code Ann. § 16-3-504.

[22] *Uncomplicated Courts Initiative*, INST. FOR THE ADVANCEMENT OF THE AM. LEGAL SYS., https://iaals.du.edu/projects/uncomplicated-courts-initiative (last visited Mar. 26, 2026).

[23] *Cases Without Counsel*, INST. FOR THE ADVANCEMENT OF THE AM. LEGAL SYS., https://iaals.du.edu/projects/cases-without-counsel (last visited Mar. 26, 2026).

[24] *Self-Represented Litigation*, STATE JUST. INST., https://www.sji.gov/priority-investment-areas/self-represented-litigation/ (last visited Mar. 26, 2026).

[25] *Tennessee Online Debt Resolution Platform (TOP)*, TENN. CTS., https://www.tncourts.gov/programs/mediation/tennessee-online-debt-resolution-platform-top (last visited Mar. 26, 2026).

[26] *Self Help Center*, TENN. CTS., https://www.tncourts.gov/programs/self-help-center (last visited Mar. 26, 2026).

[27] *Court Forms*, TENN. CTS., https://www.tncourts.gov/court-forms (last visited Mar. 26, 2026).

unrepresented, to determine the legal basis for the case before them, to discover the relevant facts at issue from any unrepresented party, and to ensure the claimant has met their burden of proof before deciding any case.

2) This Court could argue that insofar as Sessions Court cases are always heard before a Judge, the Tennessee Rules of Evidence are suspended in these Courts, and Sessions Court Judges should admit all relevant evidence, and then make a determination with respect to credibility.
3) This Court could also order that when a court clerk explains the law or process of any case regularly heard in civil sessions court, they are not providing legal advice and are not subject to any bans on the unauthorized practice of law. As of now, this Court has apparently ordered the opposite. This Court could order clerk's offices to explain their court's processes to unrepresented litigants (and confused lawyers) and what legal documents might be needed to pursue or defend a case.[28]

These reforms sound more radical than they actually are. There are already Sessions Court Judges and Clerks following these procedures and they have been recommended repeatedly by respected organizations like the National Center for State Courts, the SJI, and IAALS.

SIGNED

Eric Amarante, The University of Tennessee Winston College of Law

Maha Ayesh, LMU Duncan School of Law

Benjamin H. Barton, The University of Tennessee Winston College of Law

Mohamed Faizer, LMU Duncan School of Law

Regina L. Hillman, The University of Memphis School of Law

Alex Long, The University of Tennessee Winston College of Law

Caitlin Moon, Vanderbilt Law School

Jennifer S. Prusak, Vanderbilt Law School

Joy Radice, The University of Tennessee Winston College of Law

Katy Ramsey Mason, The University of Memphis School of Law

Paula Schaefer, The University of Tennessee Winston College of Law

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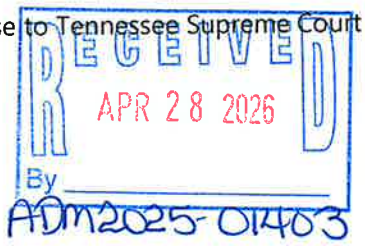
[28] *See* Lauren Sudeall, *The Overreach of Limits on 'Legal Advice'*, 131 YALE L.J. F. 637 (2022).

Daniel M. Schaffzin, The University of Tennessee Winston College of Law

Lauren Sudeall, Vanderbilt Law School

**MaryBeth Lindsey**

**To:** appellatecourtclerk
**Subject:** RE: Tennessee Law Professor Comment in Response to Tennessee Supreme Court Order No. ADM2025-01403




From: Barton, Benjamin <bbarton@utk.edu>
Sent: Tuesday, April 28, 2026 10:33 AM
To: appellatecourtclerk <appellatecourtclerk@tncourts.gov>
Subject: Tennessee Law Professor Comment in Response to Tennessee Supreme Court Order No. ADM2025-01403

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Please find attached the Tennessee Law Professor Comment in Response to Tennessee Supreme Court Order No. ADM2025-01403. I attach the file as a word document and a scanned PDF. Please tell me if you would prefer a different format. Thanks!

Professor Benjamin Barton, The University of Tennessee Winston College of Law, on behalf of:

Eric Amarante, The University of Tennessee Winston College of Law Maha Ayesh, LMU Duncan School of Law Mohamed Faizer, LMU Duncan School of Law Regina L. Hillman, The University of Memphis School of Law Alex Long, The University of Tennessee Winston College of Law Caitlin Moon, Vanderbilt Law School Jennifer S. Prusak, Vanderbilt Law School Joy Radice, The University of Tennessee Winston College of Law Katy Ramsey Mason, The University of Memphis School of Law Paula Schaefer, The University of Tennessee Winston College of Law Daniel M. Schaffzin, The University of Tennessee Winston College of Law Lauren Sudeall, Vanderbilt Law School

**MaryBeth Lindsey**

**From:** Tyler Brown <t@zaflegal.com>
**Sent:** Monday, April 27, 2026 6:22 PM
**To:** appellatecourtclerk
**Subject:** Comment re: Regulatory Reforms, No. ADM2025-01403 – Comment on nonlawyer ownership (Question 7)



To the Tennessee Supreme Court:

I write today to support the views expressed in the comment submitted to the Court on April 21, 2026, by David Esquivel and others.

I am a Utah and Arizona licensed lawyer. I currently sit on the Utah Supreme Court's Ad Hoc Committee on Regulatory Reform. As someone who has been involved with regulatory reform from the earliest outset of the Utah sandbox experiment, I can tell you the primary lesson I've learned is that the regulations governing the practice of law across the country are serving lawyers more than they are serving the public--that is a problem. The model rules of professional conduct in most states are inhibiting innovation, which ultimately leads to a less competitive and less consumer-oriented legal services marketplace.

The Utah experiment has shown that non-lawyer ownership of law firms does not increase the risks of consumer harm. It turns out that non-lawyers are at least as ethical as lawyers. Who would have ever guessed that? The other lesson learned is that solving this problem in a single jurisdiction doesn't fix the entire marketplace. The practical reason for this is that investors looking to scale a legal tech business that provides great legal solutions to consumers are ultimately turned off by the limited geographies of state-by-state approvals. Limited upside means limited investment. This "lack of scale" problem has not stopped all investors from pursuing innovation inside Utah and Arizona, but we have not yet seen the floodgates open. More states need to take bold initiative to push the legal services marketplace in a direction that favors consumers over attorneys.

The lion's share of legal innovation is happening outside of "the practice of law" as it is defined by most states. This is because the regulatory frameworks applicable to the practice of law stifle innovation. As a result, we have relatively few lawyers participating in cutting-edge legal innovation. Instead, it is dominated by tech with limited lawyer input. That will be to the detriment of the consumer. By taking a bold step in Tennessee, I believe consumers will be one step closer to a functional marketplace where legal services are high quality, dramatically more affordable, and more accessible.

I admire the courage of regulators in Tennessee and elsewhere who are taking a close look at this and asking the right question--how can legal regulation serve the public interest? The answer--a competitive legal services marketplace.

Thanks,

**Ty Brown** // Partner

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**MaryBeth Lindsey**

**From:** Michael Rafferty <mrafferty@harrisshelton.com>
**Sent:** Monday, April 27, 2026 6:15 PM
**To:** appellatecourtclerk
**Subject:** IN RE: PUBLIC COMMENTS ON POTENTIAL REGULATORY "REFORMS" - Strong opposition



To the Supreme Court of Tennessee:

I have practiced in Tennessee since 1982. I am also licensed to practice in Arkansas (1985) and Mississippi (1990). I try to focus my practice on commercial litigation, but I have more than 30 years of experience in defending medical malpractice claims.

I witnessed a phantom medical malpractice "crisis" early in my practice along with a second such purported crisis which yielded the current "Health Care Liability Act." The HCLA is little more than a trap for claimants to shift the focus from a medical malpractice claim to a pointless dispute over "notice" which, of course, has nothing to do with the merits (or lack thereof) of a claim.

At the same time the HCLA became law, the General Assembly enacted the caps on damages, also in response to a phantom crisis. I remember seeing one critic point out that the impetus for this legislation could not be supported by any actual facts, but was effectively legislation by anecdotes and urban legends. Sadly, many of the so-called reforms have mimicked or followed policy initiatives which originated in Texas where there probably was a genuine need to clean up a corrupt system.

I moved here from Missouri when I went to college at Rhodes. When I started practicing, I was always pleased that Tennessee, even in Shelby County where my office is located, seemed to be much more moderate, avoiding extremes in favoring either the plaintiff or the defendant. The one thing that has been consistent in my more than 44 years of practice is that insurance companies have been highly effective in prohibiting any public interest legislation. I have heard critics complain about runaway juries, but we've always had safeguards in place to deal with that. But unlike many people, I have the benefit of experience, from the inside, and therefore have perspective. I have even served on a jury.

The idea that we now need to discard the way of licensing lawyers in favor of a free-for-all with, effectively, no regulation is ludicrous. If the ABA is not going to evaluate law schools, what entity will do this?

When I started practicing, more lawyers viewed the practice of law as a profession, not merely a job or a way to make money. Younger lawyers, particularly those in the more urbanized counties, don't appear to have any appreciation for the concept of being an officer of the court or of providing a service for clients. Eliminating the traditional method for accrediting schools is not a solution; it will further erode a crucial pillar of an institution – the courts – that needs to be a bulwark against mediocrity and greed and oppression of the weak and disadvantaged in favor of the unprincipled.

I was extremely discouraged and disappointed when I learned that the Supreme Court was seriously considering these so-called regulatory "reforms." For one, I knew that if the Court were considering them, they would certainly be implemented whether they were needed or helpful. Second, I also knew they weren't needed, but that the forces behind these policy initiatives were echoes of nonsense that is spewed hourly on Fox News and other propaganda outlets that base their views, not on facts or history, but phony grievances that are aggressively ignorant of history. I know this is a losing proposition for me. I know these unnecessary "reforms" are inevitably coming, just as I know every update on my iPhone is toing to make it less user-friendly. I should proofread this before I send it, but I doubt it's going to be read, and I know my perspective will not prevail.

If the system is broken – and I adamantly disagree that there's any evidence that it is broken – discarding the traditional way that all current lawyers became licensed in favor of something that would have no standards and no infrastructure to ensure accreditation is certainly not the way to fix it. And if this state won't spend money on health care, the legislature certainly won't have any appetite for building an infrastructure to do what is currently being done to ensure accreditation. This state won't even join the Twenty-first Century and implement a uniform and effective e-filing system!!!!

It should go without saying that these my opinions and not those of anyone else in my firm or the firm as a whole.

**Michael F. Rafferty** | Attorney at Law

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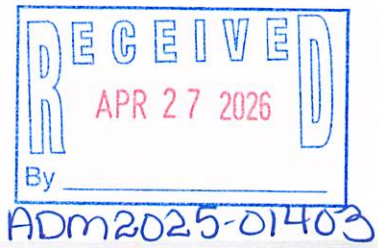
**MaryBeth Lindsey**

**From:** Robert Davis <ethiclaw45@gmail.com>
**Sent:** Monday, April 27, 2026 5:23 PM
**To:** appellatecourtclerk
**Subject:** New Rules Expanding Access to Justice




**Warning: Unusual sender** <ethiclaw45@gmail.com>
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Greetings:
I am a lawyer, licensed in Pennsylvania, West Virginia and Georgia. However, my hometown is signal Mountain Tennessee. I still have a number of cherished relatives who are living in the state of Tennessee.

My good friend Lucian Pera has asked me to raise my voice in support of changes in administrative rules by the Supreme Court in Tennessee that will make access to justice much easier for Tennesseans, particularly for those who are poor.

I am also an adjunct professor of law and have both prosecuted and defended lawyers, judges, state officials, and others in ethics and disciplinary proceedings. One thing I have learned in my 53 years of practice is that when justice is rationed and the poor and others have no access to it, justice generally is denied.

Thinking of my fellow Tennesseeans, I strongly urge the Tennessee Supreme Court to accept the proposed changes that will truly increase access to justice for those less fortunate.
Thank you for considering my views. I would be pleased to answer questions and expand upon my views if requested.

Robert H 'Bob" Davis Jr.
Former PA Chief Counsel, former Counsel, West Virginia State Bar, former Asst. Gen. Counsel, State Bar of Georgia

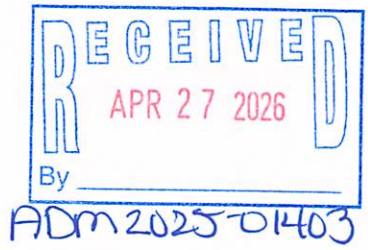
__ + T +__

Law Office of Robert H. Davis, Jr.

Harrisburg PA

**MaryBeth Lindsey**

**From:** Jayne Reardon <jayne@jaynereardon.com>
**Sent:** Monday, April 27, 2026 3:47 PM
**To:** appellatecourtclerk
**Cc:** Jayne Reardon
**Subject:** Comment re: Regulatory Reforms, No. ADM2025-01403 – Initial comment on need for action




Warning: Unusual sender <jayne@jaynereardon.com>

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To the Tennessee Supreme Court:

I write today to support the views expressed in the comment submitted to the Court on April 2, 2026, by Lucian Pera supporting the Supreme Court's finding of an urgent need for reform. I appreciate the opportunity to lend my voice from the neighboring state of Illinois.

I currently am in the private practice, but I spent over fifteen years at the Illinois Supreme Court Commission on Professionalism. Through my work promoting professionalism, I came to learn that most states in our country, including Illinois, are characterized by legal deserts and large swaths of populations that lack access legal services. At the same time, unsurprisingly, polls of the public show they feel shut out of the legal system and their perception of lawyers and judges plummets. When members of the public feel marginalized by the legal system, they do not support it. When we allow this to occur, and persist, we fail to live up to basic principles of professionalism.

It is our core responsibility to confront and attempt to stem this tide. The raison d'être of our profession is to make legal services available so that Americans can understand and vindicate their rights. Lawyers have the responsibility "to seek improvement of the law and access to the legal system...[and] 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 to maintain their authority." Preamble to the Rules of Professional Conduct Comment [6] .

I commend the Tennessee Supreme Court for its bold leadership in confronting and in fashioning reforms to correct this crisis. I hope other states follow suit. If I can assist n any way, I stand by.

Jayne R. Reardon
FisherBroyles, LLP
203 N. LaSalle St. Suite 201
Chicago, IL 60601

**MaryBeth Lindsey**

**From:** Bahou, A.J. <ajbahou@bradley.com>
**Sent:** Monday, April 27, 2026 3:43 PM
**To:** appellatecourtclerk
**Subject:** Comment re: Regulatory Reforms, No. ADM2025-01403 – Comment on AI and UPL reform



To the Tennessee Supreme Court:

I personally write today to support a request that the Court appoint a working group and fund pilot programs related to the use of AI in high-need legal areas, including housing, debt collection, and family law.

This is a personal request—not submitted on behalf of my firm or any client. My signature line below is merely provided as contact information.

All the best,
A.J. Bahou

Bradley

**A.J. Bahou**
Partner | Chair AI Practice
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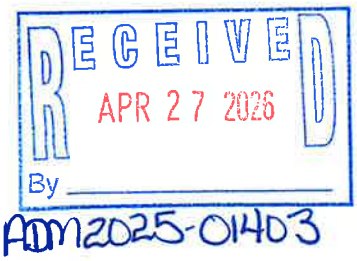
ALAS
Attorneys' Liability Assurance Society




April 27, 2026

VIA E-MAIL: appellatecourtclerk@tncourts.gov

**Re: Docket No. ADM2025-01403—Tennessee Supreme Court's Request for Comment on Whether the Court Should Modify, Reduce, or Eliminate Regulations Prohibiting Nonlawyer Ownership of Law Firms or Fee Sharing with Nonlawyers**

Attorneys' Liability Assurance Society Ltd., a Risk Retention Group (ALAS) responds to the request of the Tennessee Supreme Court for comments on whether the court should modify, reduce, or eliminate regulations prohibiting nonlawyer ownership of law firms or fee sharing with nonlawyers.

## I. Introduction

ALAS is a mutual insurance company that insures 222 law firms, including more than 84,000 lawyers in all 50 states, the District of Columbia, and 38 foreign countries, and is the leading provider of professional liability insurance for large law firms in the United States. We insure 18 member firms with offices in Tennessee—with 1,164 total lawyers practicing in the state. Since our inception in 1979, ALAS has handled more than 19,000 claims and has developed substantial knowledge and experience concerning situations that give rise to legal malpractice claims. By virtue of the extensive loss prevention services it provides to its members, ALAS has a unique understanding of problems confronting lawyers and law firms today.

Lawyers from ALAS were actively involved in the American Law Institute's development of the *Restatement Third, The Law Governing Lawyers* and in the American Bar Association's (ABA) 2002 revision of the Model Rules of Professional Conduct. ALAS is also involved with other professional and bar associations that have defined the ethical and professional duties of lawyers and is mindful of the need to enhance access to justice for middle- and low-income individuals. ALAS applauds the Tennessee Supreme Court for its efforts to ensure access to affordable legal services for all Tennessee residents.

The provisions of Tennessee Rule of Professional Conduct 5.4, titled "Professional Independence of a Lawyer," were enacted to "protect the lawyer's independence of professional judgment" by prohibiting, among other things, nonlawyer ownership of a law firm.[1] The Tennessee Supreme Court's recent initiative to explore modification, reduction, or elimination of Rule 5.4 and any other regulations governing the manner in which lawyers and law firms function seeks to balance dual goals: (1) ensuring the availability of affordable legal services, while (2) protecting consumers of legal services from harm. While modifying, reducing, or eliminating Rule 5.4 and other regulations prohibiting nonlawyer ownership may appear to be in line with those objectives, they do not promote either. Instead, they threaten to undermine the core values of the U.S. legal system and compromise client confidentiality and the attorney-client privilege without reliable evidence that the changes will increase access to justice. Accordingly, ALAS opposes any modification, reduction, or elimination of Rule 5.4 or any other

[1] Tenn. Sup. Ct. R. 8, RPC 5.4 cmt. [1-2].



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Tennessee regulations prohibiting nonlawyer ownership of law firms or allowing fee sharing with nonlawyers.

## II. History of Select Rule 5.4 Proposed Revisions

The ABA has debated revising or eliminating its Model Rule of Professional Conduct 5.4 multiple times since the 1970s. Each time, the ABA has ultimately rejected proposals to revise Rule 5.4 because such a change threatened the core values of the legal profession, including lawyer independence, confidentiality, and client loyalty. For example, between 1977 and 1983, the Commission on Evaluation of Professional Standards (Kutak Commission) considered the issue of lawyers partnering with nonlawyers and proposed a draft Rule 5.4 allowing such conduct. The ABA House of Delegates rejected the proposal and, instead, adopted a version of Rule 5.4 that is substantially the same as the current version of the rule.[2] In 2000, the ABA House of Delegates again considered and rejected a proposal for fee sharing with nonlawyers and nonlawyer ownership, instead adopting a recommendation stating that "the sharing of legal fees with non-lawyers and the ownership and control of the practice of law by non-lawyers are inconsistent with the core values of the legal profession."[3] We share the ABA's view in this regard.[4] In 2019, the ABA Center for Innovation released a resolution that would have encouraged "variations" to Rule 5.4 as a way to address the access to justice problem. However, in the wake of strong opposition from multiple state bar presidents, the ABA House of Delegates adopted a version of the proposal that explicitly disclaimed any recommendation regarding changes to Rule 5.4.[5] Most recently, on August 9, 2022, the ABA House of Delegates passed Resolution 402, reaffirming its position that allowing nonlawyers to own law firms is inconsistent with the core values of the legal profession.[6]

Most U.S. jurisdictions are in accord with the ABA's position and continue to prohibit nonlawyer ownership of law firms, consistent with the long-standing principles set forth in Rule 5.4. Several states recently confronted with the issue of whether to revise or eliminate their respective versions of Rule 5.4 responded with a resounding "no."

For example, the Florida Supreme Court considered and rejected a proposal to allow nonlawyer ownership of law firms and fee sharing with nonlawyers in March 2022.[7] In December 2025, the Florida Supreme Court reaffirmed its prohibition on nonlawyer ownership of law firms by amending Rule 4.8.6,

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[2] ABA Comm. on Ethics 20/20, *Issue Paper Concerning Alternative Business Structures* (Apr. 5, 2011), https://www.americanbar.org/content/dam/aba/administrative/ethics_2020/abs_issues_paper.authcheckdam.pdf.

[3] *Id.* at 6.

[4] The topic of nonlawyer ownership and fee sharing with nonlawyers surfaced yet again in 2011 and 2016, and each time the ABA declined to make any changes to Rule 5.4. Press Release, ABA Comm. on Ethics 2020, *ABA Commission on Ethics Will Not Propose Changes to ABA Policy Prohibiting Non-Lawyer Ownership of Law Firms* (Apr. 16, 2012); ABA, *Report on the Future of Legal Services in the United States* (Aug. 2016).

[5] ABA House of Delegates, Resolution 115 (Feb. 17, 2020), https://www.americanbar.org/content/dam/aba/directories/policy/midyear-2020/2020-midyear-115.pdf.

[6] ABA House of Delegates, Resolution 402 (Aug. 9, 2022), https://www.americanbar.org/content/dam/aba/directories/policy/annual-2022/402-annual-2022.pdf.

[7] Letter from the Fla. Sup. Ct. to the Fla. Bar Rejecting Nonlawyer Ownership (Mar. 3, 2022), https://www.abajournal.com/files/Florida_Supreme_Court_letter.pdf.

"Authorized Business Entities," to explicitly prohibit nonlawyers from serving as a partner, member, shareholder, president, or equity owner of a Florida law firm.[8] The amendment also prohibits nonlawyers from supervising the work of any lawyer or performing any policymaking duties at a law firm.[9] In December 2023, the Texas Access to Justice Commission voted against a plan that would allow nonlawyer ownership of law firms.[10] Illinois and Connecticut have also forcefully rejected efforts to allow nonlawyer ownership.[11]

On September 9, 2022, the California Bar retracted its efforts to pursue nonlawyer ownership, when the governor of California signed legislation (AB 2958) restraining the California Bar from pursuing a regulatory sandbox aimed at testing nonlawyer ownership.[12] On October 12, 2025, California's governor signed another bill into law, Bill AB 931, which bans contingent fee arrangements with nonlawyer-owned firms.[13] In March 2017, the United States Court of Appeals for the Second Circuit upheld the dismissal of a complaint by two related New York law firms that would have undercut New York Rule 5.4.[14] In that case, the defendants, the Presiding Justices of the Appellate Division of New York who are tasked with administering the rule, successfully defeated plaintiffs' claim that Rule 5.4 improperly prohibited the law firms from accepting nonlawyer investment, which they claimed would enable the firms to improve the quality of the legal services offered, reduce fees, and expand their ability to serve needy clients.[15] In affirming the lower court's decision dismissing the complaint, the Second Circuit held that New York Rule 5.4 serves New York's "well established interest in regulating attorney conduct and in maintaining ethical behavior and independence among members of the legal profession."[16] Similarly, two recent New York Ethics Opinions reiterated that Rule 5.4, prohibits lawyers from sharing fees with nonlawyers.[17]

On the other side of the spectrum, six jurisdictions have created a pathway for nonlawyers to obtain an ownership interest in law firms: District of Columbia, Arizona, Utah, Indiana, Washington, and Puerto Rico. As explained more fully below, despite touting access to justice as the primary driver for this change, most of these jurisdictions have not seen meaningful progress in efforts to increase access to justice and make legal services more affordable for underserved communities. To the contrary, the

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[8] *In re* Amend. *to Rules Regul. Fla. Bar*, No. SC2025-1173 (Fla. Dec. 18, 2025).

[9] *Id.*

[10] Texas Access to Legal Services Working Group, *Report and Recommendations* (Dec. 5, 2023), https://www.texasatj.org/sites/default/files/2023.12.05%20Final%20Report.pdf.

[11] The Chicago Bar Foundation, *CBA/CBF Task Force on the Sustainable Practice of Law & Innovation* (Oct. 2020), https://chicagobarfoundation.org/advocacy/cba-cbf-task-force-on-the-sustainable-practice-of-law-innovation/.

[12] ALAS also submitted comments opposing revisions to Rule 5.4 proposed by California and Illinois.

[13] Emily R. Siegel, *California Bans Contingent Fee Sharing With 'Alternative' Firms*, Bloomberg Law (Oct. 12, 2025), https://news.bloomberglaw.com/business-and-practice/california-bans-contingent-fee-sharing-with-alternative-firms.

[14] *Jacoby & Meyers, LLP v. Presiding Justices*, 852 F.3d 178 (2d Cir. 2017).

[15] *Id.* at 181.

[16] *Id.* at 191.

[17] N.Y. Formal Op. 1289 (Dec. 23, 2025) (Rule 5.4 does not permit a law firm to share fees with a nonlawyer entity); N.Y. Formal Op. 1288 (Dec. 19, 2025) (trust may not own shares of a New York law firm even if, among other things, both the trustee an sole beneficiary are New York–licensed attorneys because the trust is not a lawyer and not an entity authorized to practice law).

changes have seen private equity companies and even a Big Four accounting firm enter the marketplace with a focus far removed from access to justice issues.

## III. Rule 5.4 Should Not Be Revised

Tennessee's Rule 5.4 serves critical public-policy interests. The rule ensures that lawyers will protect client interests and uphold the principles of the profession, including lawyer independence. These core values will be threatened if the financial interests of nonlawyers, who have no ethical duty to the law firms' clients, overshadow the best interest of clients.[18] Indeed, given that profit is the principal goal in most business ventures, there is substantial risk that nonlawyer investors, or intermediary entities, will focus only on the bottom line at the expense of client interests and the quality of services. Potential consequences of this focus include a decrease both in the quality of law-related services and pro bono work.[19]

Based on ALAS's extensive experience, we know that building and maintaining an effective risk management program in a law firm takes considerable resources. It is also a matter of culture and professionalism that puts ethical practice and client concerns above profit. We are very concerned that allowing fee sharing with nonlawyers and nonlawyer ownership will erode the culture and professionalism of law firms and result in a practice that is less protective of clients.

Lawyers are unique from most other professional services providers because they owe special and specific responsibilities to their clients and are required to proceed in a manner that best serves their clients' interests, as outlined throughout the Tennessee Rules of Professional Conduct. A lawyer's ability to maintain professional independence is paramount to serving a client's best interests. The ethical obligations set forth by Rule 5.4 ensure that lawyers protect clients' interests over profits. For example, consider what might happen if private equity investors were permitted to have an ownership stake in law firms. It is not unrealistic to envision those investors taking dividends out of the firm, cutting costs expended on risk management and quality control, and taking other steps to realize profits. These actions might benefit the investors financially, but they would undermine the firm's lawyers' professional obligations to their clients.[20] These concerns apply equally to firms that share fees with or co-own intermediary entities.

These are not the only risks associated with fee sharing and nonlawyer ownership of law firms. The attorney-client privilege and client confidentiality are long-standing principles at the heart of every lawyer's relationship with every client. *See* Tenn. R. of Pro. Conduct 1.6. It is unrealistic to think that nonlawyer investors and other business partners will not want data on clients that is both confidential and privileged. Revealing such data will breach the lawyer's duty of confidentiality (absent client

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[18] Nick Robinson, *When Lawyers Don't Get All the Profits: Non-Lawyer Ownership of Legal Services, Access, and Professionalism*, 29 Geo. J.L. Ethics, 14 (2016).

[19] *Id.* at 11.

[20] Sapna Maheshwari & Vanessa Friedman, *The Pandemic Helped Topple Two Retailers. So Did Private Equity*, N.Y. Times (May 14, 2020), https://www.nytimes.com/2020/05/14/business/coronavirus-retail-bankruptcies-private-equity.html.

consent) and likely waive the privilege.[21] For example, nonlawyer investors may seek access to client confidences and data to inform their business decisions, thereby creating a serious risk of confidentiality breach and waiver of applicable privilege. Beyond the initial exposure of information to nonlawyer investors, there is also a risk that the investors may further disclose a client's confidential information to their business partners to assist in their financial decisions. In light of these concerns, modifying, reducing, or eliminating Rule 5.4 and related regulations does not achieve the Tennessee Supreme Court's goal of maintaining consumer protection.

Nor will the proposed revisions of Rule 5.4 promote the Tennessee Supreme Court's stated purpose of access to justice. Although there are some proponents that assert that Alternative Business Structures (ABS) entities will improve access to justice, there is no evidence suggesting access to justice is the driving force for nonlawyer ownership. To the contrary, since the inception of the first ABS program more than five years ago, the available data does not show a meaningful improvement in access to justice or the delivery of legal services to otherwise underserved communities. Instead, the data indicates that ABS entities largely focus on commercial legal markets (e.g., intellectual property, contract law, and commercial litigation) rather than targeted access initiatives for underserved or low-income communities (e.g., housing, consumer protection, public benefits, and income support). Indeed, Arizona's 2024 annual ABS report shows that it granted 51 ABS licenses that year, and the vast majority of those entities focus on practice areas unrelated to access to justice needs, including commercial litigation, general business services, intellectual property, mass torts and class actions, and trusts and estates.[22]

The experience in Utah is telling. Once Utah required participants to demonstrate that authorization allows them to reach underserved Utah consumers, over 75% of the approved entities sought to terminate their authorization for an ABS license.[23] These patterns suggest that ABS reforms have not closed, nor substantially impacted, the justice gap.

The lack of evidence establishing that nonlawyer ownership increases access to justice also led Ontario, Canada, to decline a recommendation to allow nonlawyers to become majority owners in firms.[24] That decision was premised on an Ontario-commissioned 2014 study by Jasminka Kalajdzic that sought to determine whether ABSs had improved access to justice in England and Australia, two jurisdictions that allow nonlawyer ownership.[25] Ms. Kalajdzic's study concluded that there is "no empirical data to support the argument that non-lawyer ownership has improved access to justice."[26]

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[21] ABA Comm. on the Future of Legal Services, *Report on the Future of Legal Services in the United States* (Aug. 2016), at 3.

[22] ABS Committee, *Annual Report to Supreme Court for 2024* (Apr. 2025); ABS Committee, *Annual Report to Supreme Court for 2024* (Feb. 28, 2025).

[23] Utah Office of Legal Services Innovation, *Authorized Entities* (last visited Dec. 11, 2025), https://utahinnovationoffice.org/authorized-entities/.

[24] Alternative Business Structures (ABS) Report: *Majority non-lawyer ownership off the table* (Sept. 28, 2015).

[25] Memorandum from Jasminka Kalajdzic to Linda Langston of the Ont. Trial Lawyer Ass'n on ABS Research 1 (Dec. 1, 2014).

[26] *Id.* at 1, 10–11, 14.

This lack of evidence was again manifest in the ABA Commission on the Future of Legal Services' 2016 *Report on the Future of Legal Services in the United States* (Legal Services Report), which documented the commission's findings stemming from a two-year study focused on access to legal services.[27] Here too, there was "little reported evidence that ABS has had any material impact on improving access to legal services."[28] Similarly, in England, where nonlawyers have been allowed to own interests in law firms since 2011, the lack of access to justice persists for most of the low- and middle-income population.[29] According to a 2019 Solicitors Regulation Authority survey, 68% of those surveyed stated they cannot afford the cost of legal services, and 79% believe that it needs to be easier for people to access legal guidance.[30]

Instead of increasing access to justice, Australia and England have seen growth in a single practice area—personal injury cases—since allowing nonlawyer ownership of law firms.[31] Other areas where such access is desperately needed, such as family law, property and landlord/tenant law, and criminal law, have not seen the same growth.[32] Indeed, the rate of self-representation in family law matters in Australia was more than 50% in 2014.[33] This is entirely consistent with the conclusions of a 2014 study conducted by Nick Robinson, a fellow at the Program on the Legal Profession at Harvard Law School, which found that nonlawyer investment is "likely to be attracted to legal sectors, like personal injury, where expected returns are high and that are relatively easy to commoditize, but where there may not be as much of an access need because of the long-standing practices like conditional or contingency fees."[34] This provides further evidence that allowing nonlawyer ownership of law firms will not serve the Tennessee Supreme Court's stated purpose of access to affordable legal services.

Numerous jurisdictions have enacted successful programs aimed at reducing the access-to-justice gap without allowing nonlawyer ownership. For example, since 2012, Washington State has permitted the licensing of nonlawyers, such as paralegals, to undertake some legal tasks through creation of the limited license legal technician (LLLT) program.[35] LLLTs can advise and assist clients in certain family law matters in Washington. Although the Washington program was sunset in 2023, other states, including Colorado, Minnesota, New Hampshire, and Oregon, have begun licensing paraprofessionals to promote access to justice. They have done so through limited authorization to provide affordable legal services in areas where underserved communities seek the most assistance, including representation in family court, domestic violence court, and landlord/tenant matters.[36]

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[27] ABA Comm. on Future Legal Services Report at 1.

[28] *Id.* at 42.

[29] Solicitors Regulation Authority, *Legal Access Challenge Launched to Encourage Innovation* (May 30, 2019), https://www.sra.org.uk/sra/news/press/2019-press-release-archive/legal-access-challenge-launch-may-2019/

[30] *Id.*

[31] Memorandum from Jasminka Kalajdzic to Linda Langston, Ontario Trial Lawyers Ass'n, on ABS Research, at 10–11.

[32] *Id.*

[33] *Id.*

[34] *Id.*

[35] Wash. Admission & Practice R. 28 (Limited License Legal Technician Rule) (2024).

[36] Sam Skolnik, *By the Numbers: 10 States Allowed Non-Lawyers to Offer Services*, Bloomberg Law (Dec. 28, 2023).

ALAS
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ALAS supports efforts to increase access to legal representation for all middle- and low-income individuals, but we have found no reliable evidence that fee sharing with nonlawyers or nonlawyer investment in law firms furthers that goal.

Because the Tennessee Supreme Court's stated objectives, namely affordable legal services and consumer protection, will not be served by modifying, reducing, or eliminating the provisions of Rule 5.4, and there is a risk that any proposed changes will erode attorney independence and client service, ALAS opposes the modification, reduction, or elimination of Rule 5.4 and any other regulations governing the manner in which lawyers and law firms function concerning this rule.

## IV. Conclusion

ALAS thanks the Tennessee Supreme Court for its consideration of these comments and recommendations. They do not necessarily reflect the views of all ALAS member firms. The Tennessee Supreme Court has permission to reference these comments as being made by a major American legal malpractice insurer.

Nesheba Kittling
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*Vice President—Senior Loss Prevention Counsel*

Collette Woghiren
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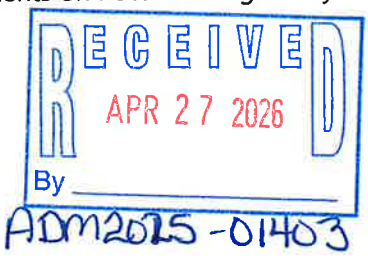
**MaryBeth Lindsey**

**To:** appellatecourtclerk
**Subject:** RE: Docket No. ADM2025-01403: In re Public Comments on Potential Regulatory Reforms

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Thank you,
Collette

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