

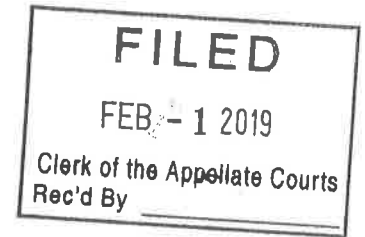


Knoxville Bar Association
505 Main Street, Suite 50
P.O. Box 2027
Knoxville, TN 37901-2027
PH: (865) 522-6522
FAX: (865) 523-5662
www.knoxbar.org

February 1, 2019

VIA E-Mail: appellatecourtclerk@tncourts.gov

James Hivner, Clerk of Appellate Courts
Tennessee Supreme Court
100 Supreme Court Building
401 Seventh Avenue North
Nashville, TN 37219-1407



Re: Amendments to Tennessee Supreme Court Rule 9, Section 10; No. ADM2018-02186

Officers

Wynne du Mariau Caffey-Knight
President

Hanson R. Tipton
President-Elect

Cheryl G. Rice
Treasurer

Jason H. Long
Secretary

Keith H. Burroughs
Immediate Past President

Board of Governors

Hon. Suzanne H. Bauknight
Jamie Ballinger-Holden
Loretta G. Cravens
Kathryn St. Clair Ellis
Elizabeth B. Ford
Rachel P. Huert
Allison S. Jackson
Stephen Ross Johnson
Elizabeth K.B. Meadows
Mary D. Miller
T. Mitchell Panter
Robert E. Pryor Jr.
Mikel A. Towle

Executive Director
Marsha S. Watson
mwatson@knoxbar.org

Dear Mr. Hivner:

Pursuant to the Tennessee Supreme Court's Order referenced above, the Knoxville Bar Association ("KBA") Professionalism Committee ("Committee") has carefully considered the proposed change to Tennessee Supreme Court Rule 9, Section 10, to require that attorneys who fail to timely file an annual registration statement be notified of delinquency through electronic means only. At the KBA Board of Governors' (the "Board") meeting held on January 16, 2019, the Committee presented a report of its review of the Order. Following the Committee's presentation and thorough discussion by the Board, the Board as a whole unanimously voted to adopt the Committee's recommendation to oppose the proposed amendment to Rule 9, Section 10.5 as currently drafted.

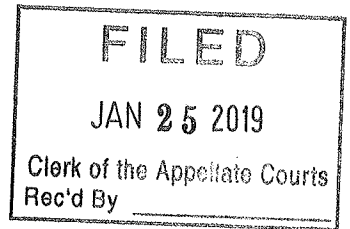
The Board engaged in extended discussion regarding the proposed changes and is concerned that notification only by electronic mail presents due process and notice implications, particularly given reliability issues with electronic mail. The KBA opposes the proposed change on the grounds that no disciplinary sanction should be imposed on an attorney under Rule 9, Section 10 unless notice has been provided to an attorney by a form of U.S. mail providing delivery confirmation at the primary or preferred address shown on the attorney's most recent registration statement filed pursuant to Section 10.1 or at the attorney's last known address.

As always, the KBA appreciates the opportunity to comment on proposed Rules and changes to such Rules promulgated by the Tennessee Supreme Court.

Sincerely,

Wynne Caffey-Knight, President
Knoxville Bar Association

cc: Marsha Watson, KBA Executive Director (via e-mail)
KBA Executive Committee (via e-mail)



IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

**IN RE: AMENDMENTS TO RULE 9, SECTION 10
RULES OF THE TENNESSEE SUPREME COURT**

No. ADM2018-02186

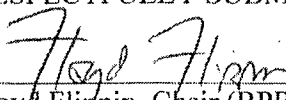
**COMMENT OF THE BOARD OF PROFESSIONAL
RESPONSIBILITY TO AMENDMENTS TO TENNESSEE
SUPREME COURT RULE 9, SECTION 10**

Comes now the Board of Professional Responsibility (the Board), pursuant to the Order filed December 6, 2018, and submits the following Comment to Amendments to Tennessee Supreme Court Rule 9, Section 10:

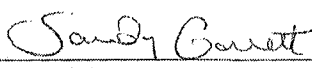
1. The Board supports the amendments to Tenn. Sup. Ct. R. 9 §10 as labor saving. In 2018, the Board staff received and processed approximately 9,500 registration statements and Interest on Lawyers Trust Accounts (IOLTA) forms; 8,631 pro bono statements and 11,729 registration payments by check. Requiring attorneys to complete their registration statement and IOLTA (Interest on Lawyers Trust Accounts) form online and pay their registration fee through the Board's Attorney Portal will eliminate Board staff time spent inputting registration, IOLTA and pro bono information; mailing IOLTA statements to the Tennessee Bar Foundation; posting and processing registration payments by check and scanning mailed registration statements and checks into the Board's database.
2. The amendments are cost-saving and will allow the Board to save approximately \$43,000 annually for expenses associated with postage, printing and mailing certified delinquency notices to attorneys noncompliant with registration requirements.

3. Board staff are readily available to assist attorneys with registration questions or problems.

RESPECTFULLY SUBMITTED,


Floyd Flippin, Chair (BPR No. 010442)
Board of Professional Responsibility of the
Supreme Court of Tennessee

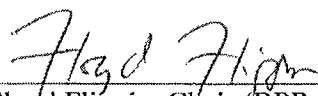
1302 Main Street
PO Box 160
Humboldt, TN 38343

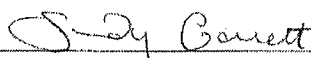

SANDY GARRETT (#013863)
Chief Disciplinary Counsel,
Board of Professional Responsibility
of the Supreme Court of Tennessee

10 Cadillac Drive, Suite 220
Brentwood, TN 37027

Certificate of Service

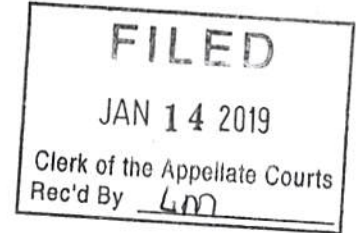
I certify that the foregoing has been mailed to Joycelyn Ashanti Stevenson, Esq., Executive Director, Tennessee Bar Association, 221 4th Avenue North, Suite 400, Nashville, Tennessee by U.S. mail, on this the 25th day of January, 2019.

By: 
Floyd Flippin, Chair (BPR No. 010442)
Chairman of the Board

By: 
Sandy Garrett (#013863)
Chief Disciplinary Counsel

720 South Main Street
Ashland City, Tennessee 37015
January 10th, 2019

Honorable James M. Hivner, Clerk
Re: Tenn. Sup. Ct. R. 9, Section 10
Tennessee Appellate Courts
100 Supreme Court Building
401 7th Avenue North
Nashville, Tennessee 37219



ADM2018-02186

Dear sir:

The proposed change to Tennessee Supreme Court Rule 9, Section 10 to require registration and payment of fees electronically brought to mind one of my more frustrating two-hour periods in memory when I attempted without success to pay my "professional privilege tax" assessment electronically this past May. Fortunately, after hearing my difficulties, a person with the Department of Revenue pointed out a form which allowed me to pay this tax the old-fashioned way. In this endeavor I realized I could have gone to the bank, cashed a check, driven to Nashville, delivered the funds and driven back home with complete success in less time and infinitely less frustration than with my unsuccessful two-hour online attempts. With a rule change such as that proposed it would be greatly appreciated if traditional forms of payment could be allowed for those (and I may be the only one) in the hapless and technologically incompetent group. Perhaps as those of us who futilely attempt to file electronically reach a sufficiently high blood pressure reading or expletives uttered per hour rate, we could qualify for traditional payment methods as an alternative. I would certainly be glad to pay an extra fee for processing and handling so burdensome an item as a check or cash or credit card, which every other entity I have owed an obligation to has managed to accept for payment.

I appreciate the opportunity to comment. Your thoughtful consideration of this matter will be greatly appreciated.

Very truly yours,



Sam M. Balthrop
B.P.R. No. 3079

FILED

JAN 10 2019

Clerk of the Appellate Courts
Rec'd By LM

JOSEPH H. VAN HOOK
ATTORNEY AT LAW
(865) 435-1145 (Voice)
(865) 435-9639 (Facsimile)

Mailing Address:
Post Office Box 613
Oliver Springs, Tennessee 37840

Street Address:
1042 East Tri County Boulevard
Oliver Springs, Tennessee 37840

January 8, 2019

James M. Hivner, Clerk
Re: Tenn. Sup. Ct. R. 9, section 10
Tennessee Appellate Courts
100 Supreme Court Building
401 7th Avenue North
Nashville, Tennessee 37219-1407

Re: Amendments to Rule 9, Section 10
No. ADM2018-02186

Dear Mr. Hivner:

This letter is offering written comments as to amendments to Rule 9 Section 10 wherein the Supreme Court wishes to require an electronic form to be submitted as to compliance with Rule 9 Section 10 and wishes to require all annual fees paid to the Board pursuant to this rule shall be paid electronically through the Board's Attorney Portal.

I am totally opposed to any form of mandatory electronic filing. There are still a substantial number of (probably older) attorneys that do not necessarily wish to conduct all their business electronically over the internet. I am one of those attorneys.

I am not comfortable with the electronic communication system as it gives rise to opportunities for identity theft and other forms of electronic data breaches and problems.

I do not pay any of my bills (except in unusual situations) electronically. I always demand an invoice and pay by check.

I am also the City Judge and Recorder for the Town of Oliver Springs (municipal and general sessions criminal jurisdiction by private act). As an elected official, I have to file an ethics disclosure in January of every year, which is, generally speaking, a mandatory electronic filing. Several of those years I have attempted to file in early January, but the computer system at the appropriate office in Nashville was down, and my paralegal and I spent several hours of my valuable time attempting to file a one page form. This computer filing requirement became a waste of my time. Note that I said "my paralegal and I," as I depend on my paralegal for all of my electronic communication and internet activities, as I am "computer illiterate." I had been

January 8, 2019
Page two

able to file a paper document, I would have taken ten or fifteen minutes, filed out the paper, and mailed it.

I just do not trust electronic filing and I am not comfortable with mandatory electronic filing.

I would respectfully request that the rule be modified to allow either a paper form filing or an electronic form filing.


I further do not think that all notices required or permitted to be served must be served electronically for the same reasons. My paralegal and I have experienced numerous occasions where the electronic communication is "sent" but is not "received." In view of the problems I have experienced, if I send something electronically of great importance, I generally follow it up with a written mail transmission also.

I believe the correct solution is to **allow both a paper document filing and an electronic filing.**

If you have any questions, please feel free to call me.

I shall appreciate any kind consideration that you will give my views in this letter.

Sincerely,



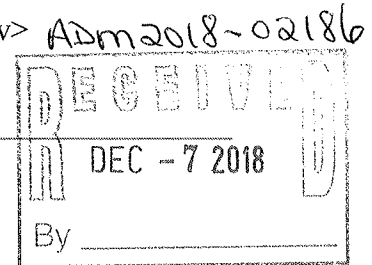
Joseph H. Van Hook

JHV:nmw

Hivner Letter (1.8) (2)

appellatecourtclerk - Proposed changes to Supreme Court Rule 9, Section 10

From: Randy Hooper <jrhooper@hooperzinn.com>
To: "appellatecourtclerk@tncourts.gov" <appellatecourtclerk@tncourts.gov>
Date: 12/6/2018 7:04 PM
Subject: Proposed changes to Supreme Court Rule 9, Section 10



Dear Clerk,

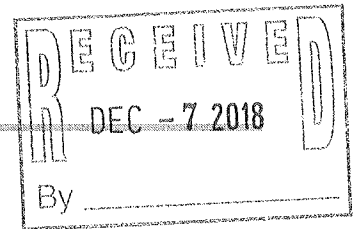
In my opinion, it is not yet time to require attorneys to file their annual registration and pay their annual fees electronically. It is still easier for me to pay by check. Our firm does not have a business credit card because we have decided the risk of abuse outweighs the convenience. We make online payments using each attorney's personal credit card and then reimburse the attorney by check. This is how we file and pay for our clients with the Secretary of State online, for example. The Secretary of State offers an online print and pay by check option, which we use with some clients and situations. I suppose if electronic options like PayPal and Venmo are offered under the rule, I might get on board.

If electronic payment is somehow favorable to the Court or BPR, it seems some incentive should be offered to the attorneys for using that option. If bad checks are a problem, it seems some penalty should be imposed for bad checks.

I expect in a few years we will all be using Venmo or some other online payment vendor. We are not there yet.

Randy
J. Randall Hooper
Safe Estates Law Group
Hooper Zinn & McNamee, PLLC
109 Westpark Drive, Suite 300
Brentwood, TN 37027
[\(615\)661-5472](tel:(615)661-5472)
jrhooper@hooperzinn.com

Lisa Marsh - Proposed Change to Rule 9. Section 10



From: <norma.shirk@complianceriskadvisor.com>
To: <appellatecourtclerk@tncourts.gov>
Date: 12/7/2018 12:25 PM
Subject: Proposed Change to Rule 9. Section 10

ADM2018-02186

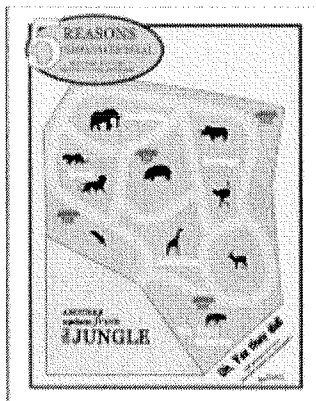
Mr. Hivner:

Respectfully, if lawyers are going to be required to pay fees on-line only, then we should not be stung for the "administrative fee", "convenience fee" or whatever other euphemism is used for these charges. It's no longer a matter of administrative ease or convenience if we have no choice but to pay on-line. Either waive the charges applicable to paying by credit card or provide an alternative method of payment that doesn't include such fees.

Norma J. Shirk
Bar # 021989

Norma Shirk
Manager/Owner
Corporate Compliance Risk Advisor
Website: www.complianceriskadvisor.com
HR Blog: www.hrcompliancejungle.com
History Blog: www.normashirk.com
Blog: www.hersavvy.com
Phone: [615-479-1832](tel:615-479-1832)

Download my FREE eBook. Simply click on the cover to open the PDF.



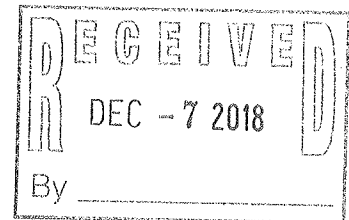
Lisa Marsh - proposed changes to Rule 9, Section 10 presented for comment

From: "Arnold Cohen" <agc@dmrpclaw.com> ADM2018-02186
To: <appellatecourtclerk@tncourts.gov>
Date: 12/7/2018 11:03 AM
Subject: proposed changes to Rule 9, Section 10 presented for comment
Cc: "Susan Wolfe" <dtrplegal@dmrpclaw.com>, "Jim MacDonald" <jsm@dmrpclaw.co...>

Dear Mr. Hivner,

Many firms pay the annual fees for all or most of their lawyers in a single check or draft managed by an office manager or bookkeeper. In the event the proposed rule is adopted, it should provide that the fee for all or a group of the lawyers in the firm **may** be paid by a single transaction collectively on behalf of each such lawyer, and the portal system should permit the transmittal of payment and information to be copied as a confirmation to each such lawyer for whom the fee is paid in a single email transmission from the person designated by the law firm to do so. Thank you for your consideration.

Arnold G. Cohen
Dunn, MacDonald & Reynolds, PC
6204 Baum Dr.
Knoxville, Tennessee 37919
865-524-0510 Ext. 108
865-525-6001 [Facsimile]
Assistant to Arnold G. Cohen: Ceil Sheahan, Ext. 113



Lisa Marsh - Re: Proposed Change Rule Change on Registration and Payment of Fees

ADM 2018-02186

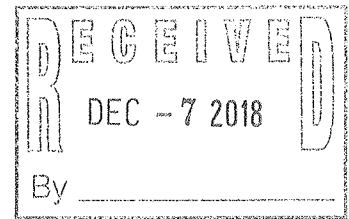
From: K D Grissom <grissomkd@gmail.com>
To: <appellatecourtclerk@tncourts.gov>
Date: 12/6/2018 5:33 PM
Subject: Re: Proposed Change Rule Change on Registration and Payment of Fees

I am opposed to this rule change. For those if us who are not in the active practice if law, and thus have no office staff, we are confronted with necessity of having to become technologically sufficient to meet this new rule. At age 75, I really have no desire to go to such effort.

I have already had a bad experience with the Department of Revenue. Two years ago I tried to file my Professional Priviledge Tax and ended up paying twice and having to go through the refund process. The revenue office is totally unreachable. I tried to reach them by calling, going to a DoR office and finally by written correspondence. A staff person in the DoR office in Cookeville told me they could not give any advice. The web site for the DoR makes me think of a rat in a maze. I finally had to get my grand-daughter to complete my filing.

Please drop this proposal.

K. Dickson Grissom
BPR 2999

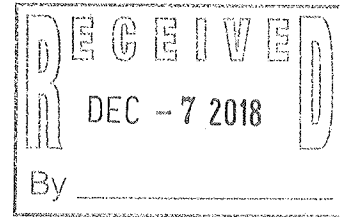


ADM2018-02186

From: Michael Mossman <michael@mossman.com>
To: "appellatecourtclerk@tncourts.gov" <appellatecourtclerk@tncourts.gov>
Date: 12/6/2018 5:34 PM
Subject: Proposed on line registration/payment

This is not a good idea for those of us who are technologically challenged.
Michael Mossman

Sent from my iPhone



Lisa Marsh - Comments to Rule 9 Section 10

ADM2018-02186

From: Thomas Hutto <Thomas@muletown.law>
To: "appellatecourtclerk@tncourts.gov" <appellatecourtclerk@tncourts.gov>
Date: 12/7/2018 10:35 AM
Subject: Comments to Rule 9 Section 10

Please add to Section 10.2 in either subsection (b) or (c) as appropriate:

"The Board shall not collect a fee as a reimbursement for payments made by credit card or ACH payment or direct debit. These fees, if any, shall be included and paid as part of the annual fee."

If the Supreme Court is going to mandate payment be made electronically, the Board should absorb the costs of that payment the same as attorneys across the state who must deduct credit card fees from their payments received.

Thank you,

Thomas M. Hutto
Attorney-at-Law

Lawwell, Dale, Graham & Hutto
805 S. Garden Street
Columbia, TN 38401
931-388-2822
<http://www.lawwelldaleandgraham.com/>

