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The Honorable Governor Bill Lee
The Honorable Randy McNally, Lt. Governor and Senate Speaker
The Honorable Cameron Sexton, House Speaker, and
Members of the Tennessee General Assembly

Re: Indigency Representation Funding

Dear Gentleman and Ladies:

The Tennessee General Sessions Judges Conference is aware the Tennessee Supreme Court recently announced its intention to ask the Tennessee General Assembly for additional funding for attorneys appointed by the Courts of the State of Tennessee to represent indigent litigants. The current rate of pay was originally set in approximately 1997, and it has not been raised, except for the equalization of the out-of-court rate and in-court rate several years ago.

Certainly, the current hourly rate of pay for court-appointed attorneys has made it very difficult for the Tennessee General Sessions Courts to find a sufficient number of attorneys able and willing to represent indigent litigants, especially indigent criminal defendants, and constitutes an ongoing problem for our state's judicial system. Of course, the Courts are obligated under the Tennessee Constitution and United States Constitution to ensure all criminal defendants are represented by an attorney at all stages of criminal proceedings. Additionally, the Courts are obligated to ensure minors, wards and mentally ill individuals are represented in certain civil proceedings. A shortfall of available and qualified attorneys for indigent litigants from the private bar delays the proceedings for such litigants until a private bar attorney is available and appointed to represent the indigent litigant and, thus, causes the prosecution and defense of those cases to grind to a halt.

Unless you are a regular participant in the court system, it is hard to imagine how many indigent litigants, especially criminal defendants, pass through our court system every week. Fortunately, a large part of the criminal defendants can be represented by the Tennessee Public Defenders in each judicial district. However, a number of criminal defendants engaged in alleged criminal conduct with others and, once the group of individuals are charged, they each are constitutionally entitled to their own attorney. Once a Public Defender is appointed to represent one of the co-defendants, the Courts have to find private bar attorneys to appoint to represent each of the other co-defendants in order to avoid conflicts of interest. These cases cannot move forward in a timely manner until a sufficient number of willing and qualified attorneys can be located and appointed by the Court. Therefore, the Tennessee General Sessions Judges Conference agrees private bar attorneys, local to each General Sessions Court, are necessary to sustain a properly functioning judicial system.

Unfortunately, many private bar attorneys do not practice law in the General Sessions Courts, or they do not practice criminal law, mental health law or other areas of law within the jurisdiction of the General Sessions Courts. For a number of private bar attorneys, the overhead of a legal practice versus the rate of compensation for court-appointed cases, as well as time to be expended in excess of the compensation ceiling, financially precludes many private bar attorneys from representing court-appointed litigants. In other words, the private bar attorneys have professional, personal and family expenses to pay each month, and they simply cannot afford to lose money taking court-appointed cases. Accordingly, the State needs to create a financial incentive for private bar attorneys to take court-appointed cases, and our conference believes an increase in the hourly rate as proposed by the Tennessee Supreme Court will accomplish this goal.

On behalf of the Executive Committee of the Tennessee General Sessions Judges Conference, and Judges of the Tennessee General Sessions Judges Conference, we hereby acknowledge and declare the Tennessee General Sessions Judges Conference supports the efforts of the Tennessee General Assembly and Tennessee Supreme Court to raise funding in the upcoming state budget to increase the hourly rate of compensation to be paid to court-appointed attorneys representing indigent litigants in the General Sessions Courts of the State of Tennessee.

If you have any questions, please do not hesitate to contact my office at your earliest convenience. Thank you for your attention and cooperation.

Sincerely,
James Y. Ross, Sr.
Tennessee General Sessions Judges Conference

xc: TGSJC Executive Committee

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