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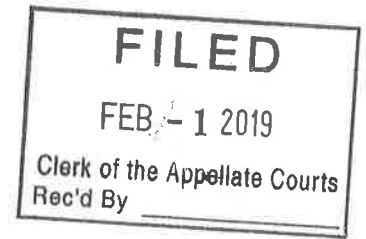
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Executive Director
Marsha S. Watson
mwatson@knoxbar.org

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 26; No. ADM2018-02237

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 26.3, 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 26.3 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 26.3 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)

FILED
JAN 25 2019
Clerk of the Appellate Courts
Rec'd By _____

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE


**IN RE: AMENDMENTS TO RULE 9, SECTION 26
RULES OF THE TENNESSEE SUPREME COURT**

No. ADM2018-02237

**COMMENT OF THE BOARD OF PROFESSIONAL
RESPONSIBILITY TO AMENDMENTS TO TENNESSEE
SUPREME COURT RULE 9, SECTION 26**

Comes now the Board of Professional Responsibility (the Board), pursuant to the Order filed December 18, 2018, and relies on the Board's filed Comment In Re: Amendments to Rule 9, Section 10 of the Tennessee Supreme Court, No. ADM2018-02186 in support of the amendments to Tennessee Supreme Court Rule 9, Section 26.

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

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

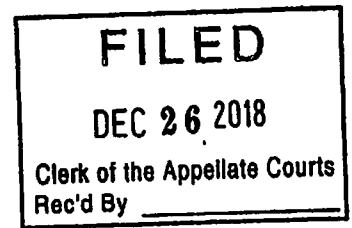
10 Cadillac Drive, Suite 220
Brentwood, TN 37027

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

By: Sandy Garrett
Sandy Garrett (#013863)
Chief Disciplinary Counsel



JOSEPH H. VAN HOOK
ATTORNEY AT LAW
(865) 435-1145 (Voice)
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ADm2018-02237

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

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

December 20, 2018

James M. Hivner, Clerk
26 Tennessee Appellate Courts
100 Supreme Court Building
401 7th Avenue North
Nashville, Tennessee 37219-1407

Re: Online Payment of Professional Privilege Tax

Dear Mr. Hivner:

I read today in the TBAToday (12/18/18) that the Tennessee Supreme Court is soliciting comments on a proposed rule change that would make delinquent professional privilege tax fees payable via an online portal and remove the requirement of a privilege tax delinquency notice sent by first class, requiring only an e-mail notice.

First, I am opposed to the payment of any professional privilege tax by an online method. I strongly prefer to receive a statement by mail and send a check by mail. I am not comfortable with providing an account number and other documentation to the Tennessee Supreme Court (or any other government agency) for an online payment. I realize that my check contains my bank and account number, but I write the check and I control the check. On an online payment basis, I believe that the online payment offers an opportunity to the government agency to have access to my banking account and make arbitrary withdrawals without my permission.

Second, although the numbers are getting smaller, many lawyers may not necessarily have the computer equipment and/or electronic equipment to send and receive e-mails and make payments online. I am sixty-six years old, and I do not participate in facebook, and I do not communicate by e-mails, and other online communication systems. I do have an e-mail address, but my paralegal handles all of those matters. For older lawyers who may not employ paralegals and secretaries, but maintain a small practice, the online payment and e-mail communication would be a hardship.

Third, I do not trust the electronic communication system. It is far too easy for third parties to hack or otherwise disrupt the communication services.

Forth, I try to avoid using e-mail communication and computer technology as much as possible, as my information and data could very easily be hacked, and I suffer type of loss or otherwise

December 20, 2018

Page Two

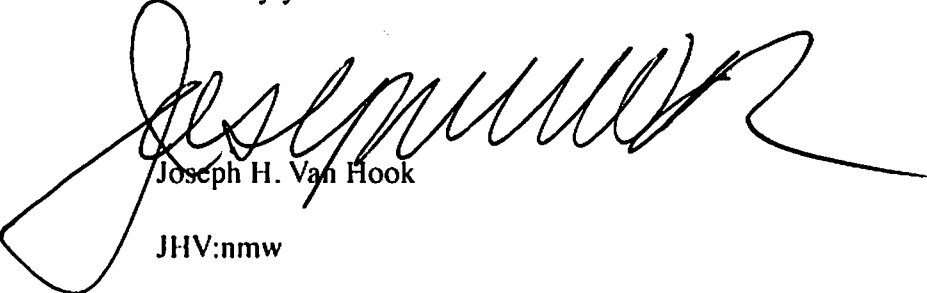
incur a problem. Therefore, it is my goal to keep as much of my professional work and personal business on paper rather than on a computer database.

If it appears that the Tennessee Supreme Court will change the rule anyway, why not send both the e-mail communication and a first class letter notice? In that fashion, the likelihood of a lawyer not receiving one of the two communications or notices would be far less as compared to the likelihood of only one notification being lost, hacked, or otherwise mishandled. Both the computer system and individuals in the post office are not perfect.

I realize that the paper hard copy mail communication and payment system is more expensive than what is being proposed. However, I would submit that keeping the check payment system and the "snail mail" post office notification system is the price that the Tennessee Supreme Court personnel would need to absorb in order to best serve its constituents.

Please feel free to contact me if you have any questions. I shall sincerely appreciate any kind consideration that you would give the views contained in this letter.

Sincerely yours,



Joseph H. Van Hook

JHV:nmw

Hivner Letter

appellatecourtclerk - Regarding proposed change to Tenn. Sup. Ct. R. 9, section 26

From: Matt Painter <mpainter@lbmc.com>
To: "appellatecourtclerk@tncourts.gov" <appellatecourtclerk@tncourts.gov>
Date: 12/21/2018 11:44 AM
Subject: Regarding proposed change to Tenn. Sup. Ct. R. 9, section 26

Dear Clerk Hivner,

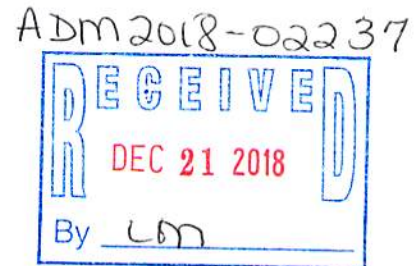
I have recently reviewed the proposed change to Tenn. Sup. Ct. R. 9, section 26 and I am opposed to the change to the extent that it provides that the "Notice" under Section 26.3 shall be provided to an attorney at his/her email address. My issues are:

1. we all receive such a huge number of emails each day, such a notice might be accidentally missed; and
2. almost all offices these days have powerful software programs used to screen email and eliminate "spam" and other potentially dangerous or unwanted emails based on algorithms leaving the potentiality that the email may never reach the attorney.

My suggestion is that the "Notice" should be sent to the attorney by the United State Postal System and email. I would err on the side of too much notice rather than running the risk of not reaching the attorney.

Respectfully submitted,

Mattison C. Painter
TN BPR# 018986



ADM2018-02237

Lisa Marsh - Court Solicits Comments on Rule Change for Professional Privilege Tax Payments

FILED
DEC 19 2018
Clerk of the Appellate Courts
Rec'd By LJM

From: Chris Clark <cclark@pattonandpittman.com>
To: "appellatecourtclerk@tncourts.gov" <appellatecourtclerk@tncourts.gov>
Date: 12/19/2018 3:59 PM
Subject: Court Solicits Comments on Rule Change for Professional Privilege Tax Payments

I appreciate the courts giving the attorneys an opportunity to give an opinion on proposed changes of this nature. Other state agencies and local courts have not been so considerate. I sincerely appreciate this courtesy.

I support providing the ability to pay fees in an online portal. I oppose removing notification by postal service and relying solely on e-mail for notification.

Please continue to send notifications via Postal Service. I would assume that most of us have inner-office systems already in place whereby assistants and bookkeepers get our mail and handle accounts payable. I also assume that the lawyers that are not timely paying their bills (especially those to the Supreme Court or government) are those that are under staffed and already trying to handle too many aspects of their legal practice (legal duties and administrative duties). E-mail may be more convenient for those lawyers, but it will completely disrupt the workflows in law offices that are properly staffed. I, for one, have someone check my postal mail every day. They handle what they can and have me address the rest. I do not look at e-mail every day. If I am in a trial, it may not get checked for an entire week. I set up an automated response that I am in a trial, on vacation, in hearings, etc. to let the person know to call my secretary. If I am getting an automated bill from someone, that automated response will not work.

As lawyers, we already have enough to manage with our caseloads and office management. We should have the ability to staff our offices in such a way that someone else handles the administrative duties. Accounts payable can be tasked to an administrative. It seems that many of our state agencies keep making changes where the lawyer is e-mailed instead of mailed, which takes our assistants out of the workflow. I oppose putting more secretarial or administrative duties on lawyers when systems are already in place in law offices for staff to handle these tasks. If changes like this continue, it erodes the limited time in the day that we lawyers can bill and make a living merely to save the state time and money. This seems especially unkind given the fact that we are already forced to pay a tax that most wage earners (or people trading time for money) are not required to pay. If this rule change were to be implemented, it would mean that lawyers are are paying a tax and getting less service for that tax.

Additionally, our own rules give greater weight to something mailed by postal service than by e-mail. Service of a pleading is proper by postal service but not by e-mail unless the other party agrees. Service on individuals can be accomplished in some cases by postal service, not by e-mail. If our rules already tell us that notice by postal service is better than e-mail, why would we not treat it the same with something that could result in a loss of a professional license.

Thank you for considering my input.

Christopher G. Clark

Attorney | Patton & Pittman
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Clarksville, Tennessee 37040
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Website: www.pattonandpittman.com

Twitter: [@Patton_Pittman](https://twitter.com/Patton_Pittman)

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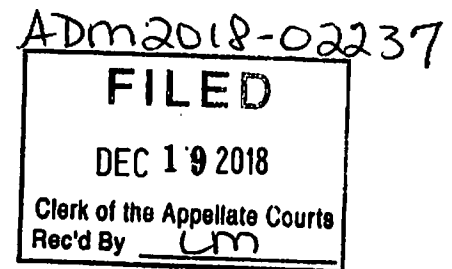


Please consider the environment before printing this email.

Lisa Marsh - Prof. Priv. tax change suggestion

From: "Harvey L. Sproul" <sproul@sproullawoffice.com>
To: <appellatecourtclerk@tncourts.gov>
Date: 12/19/2018 1:48 PM
Subject: Prof. Priv. tax change suggestion

If it is limited to notice by interment, it would be more than one time--say three separate notices seven days apart, etc.



Lisa Marsh - Proposed Rule Change for Privilege Tax Payments

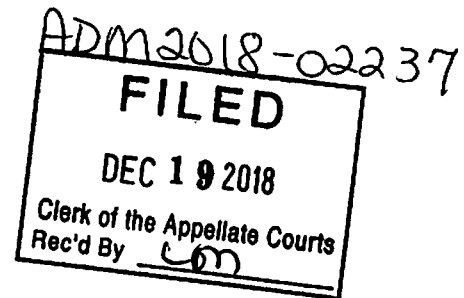
From: Julie Travis Moss <jtmoss@blair-law.com>
To: "appellatecourtclerk@tncourts.gov" <appellatecourtclerk@tncourts.gov>
Date: 12/19/2018 11:48 AM
Subject: Proposed Rule Change for Privilege Tax Payments

I am not in favor of the proposed rule change to allow delinquency notice by email only because service of the notice by mail affords the opportunity for someone else to see the notice and notify the attorney of the delinquency. For example, if the attorney is unable to check email due to accident, illness, or other reasons, whoever is checking the mail for him or her, would (presumably) see the mailed notice and assist the attorney in responding. Such person may not have access to the attorney's email. The penalty for failing to pay the tax is harsh, resulting in suspension of the attorney's license, which affects not only the attorney, but the public. I would think that the Board would want to give the attorney as much notice as reasonably possible to correct the deficiency to avoid having to suspend dozens or hundreds of attorneys for delinquency (whatever the number is each year), which shakes the public's confidence in their legal system. And, given that a \$100 delinquent compliance fee is assessed to "defray the Board's cost in issuing the notice," the cost to mail the notice is covered. Notably, the fee is not being eliminated or reduced in the proposed rule change to email only.

Sincerely,

Julie Travis Moss
Of Counsel
The Blair Law Firm
Email: jtmoss@blair-law.com

1608 Westgate Circle, Suite 100
Brentwood, Tennessee 37027
Office: [615.953.1122](tel:615.953.1122)
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Website: www.Blair-Law.com



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