

IN THE SUPREME COURT OF TENNESSEE  
AT NASHVILLE

**FILED**

DEC 16 2011

Clerk of the Courts

**IN RE: RULES 41 and 42,  
RULES OF THE TENNESSEE SUPREME COURT**

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**No. M2011-01747-SC-RL2-RL - Filed: December 16, 2011**

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**ORDER**

The Access to Justice Commission (“ATJ Commission”) asked the Court to amend Rule 41 by adding a provision to state that interpreters should aspire to provide pro bono services, similar to a provision currently applicable to Tennessee attorneys. *See* Tenn. Sup. Ct. R. 8, RPC 6.1. The Commission also asked the Court to amend Rule 42 to explicitly require that the trial court be responsible for arranging for an interpreter, when the court finds that one is needed, and that the trial court also summarize in writing the efforts made to find a certified interpreter.

On August 16, 2011, the Court filed an order soliciting public comments on proposed amendments to implement the ATJ Commission’s recommendations. The order set out a proposed amendment to Rule 41, adding a new Canon 12, and proposed amendments to Rule 42, sections 3(a) and (f). The public comment period expired on October 14, 2011.

After due consideration of the Commission’s recommendations and the written comments received during the public comment period, the Court hereby amends Rules 41 and 42 as follows:

[In Rule 41, add the following new Canon 12:]

*CANON 12. PRO BONO PUBLICO SERVICE.*

Interpreters should aspire to render a reasonable amount of pro bono publico interpretive services per year. In fulfilling this responsibility, interpreters should:

(a) provide a substantial portion of such services without fee or expectation of fee to persons of limited means; or

(b) provide interpretive services at a substantially reduced fee to persons of limited means.

**Commentary.** Personal involvement in the problems of the disadvantaged can be a rewarding experience in the life of an interpreter. This Canon urges all interpreters to provide a reasonable number of hours of pro bono service annually.

Under paragraph (a), service must be provided without fee or expectation of fee. The intent of the interpreter to render free services is essential for the work performed to fall within the meaning of paragraph (a); accordingly, services rendered cannot be considered pro bono if an anticipated fee is uncollected. Paragraph (b) permits the pro bono interpreter to accept a substantially reduced fee for services to persons of limited means; again, however, the intent of the interpreter to render reduced-fee services is essential for the work performed to fall within the meaning of paragraph (b); accordingly, services rendered cannot be considered pro bono if an anticipated fee is uncollected.

Because this Canon states an aspiration rather than a mandatory ethical duty, it is not intended to be enforced through disciplinary process.

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[In Rule 42, amend Section 3(a) and (f) to read as follows (the other paragraphs of Section 3 are unchanged):]

### **Sec. 3. Determining Need for Interpretation.**

(a) Appointing an interpreter is a matter of judicial discretion. It is the responsibility of the court to determine whether a participant in a legal proceeding has a limited ability to understand and communicate in English. If the court determines that a participant has such limited ability, the court should appoint an interpreter pursuant to this rule.

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(f) A summary of the efforts made to obtain a certified or registered interpreter and to determine the capabilities of the proposed non-credentialed interpreter should be made in open court.

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These amendments shall take effect on July 1, 2012.

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

IT IS SO ORDERED.

PER CURIAM