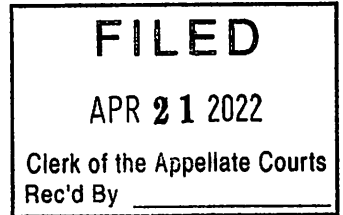


IN THE SUPREME COURT OF TENNESSEE  
AT NASHVILLE

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No. ADM2022-00281

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**COMMENT OF THE BOARD OF PROFESSIONAL  
RESPONSIBILITY TO PETITION OF THE TENNESSEE  
LAWYERS' FUND FOR CLIENT PROTECTION TO AMEND  
TENNESSEE SUPREME COURT RULE 9 AND RULE 25**

The Board of Professional Responsibility (the Board) pursuant to this Court's Order filed March 11, 2022, respectfully submits the following comments to proposed amendments to Tennessee Supreme Court Rule 9 and Rule 25.

Tenn. Sup. Ct. R. 9 Section 10.2(c) provides:

The annual fee for each attorney shall be One Hundred Seventy Dollars (\$170), consisting of a One Hundred Forty Dollar (\$140) Board of Professional Responsibility annual registration fee, a Ten Dollar (\$10) annual fee due under Tenn. Sup. Ct. R. 25, Section 2.01(a) (Tennessee Lawyers' Fund for Client Protection), and a Twenty Dollar (\$20) annual fee due under Tenn. Sup. Ct. R. 33.01C (Tennessee Lawyer Assistance Program), and shall be payable on or before the first day of the attorney's birth month, and a like sum each year thereafter until otherwise ordered by the Court.

Tennessee's current annual registration fee of \$170 is one of the lowest assessed fees in the United States, notwithstanding the Department of Revenue's \$400 professional privilege tax.<sup>1</sup> Tennessee's \$170 attorney registration fee has remained constant since 2008, while costs associated with the Tennessee Supreme Court agencies funded by this registration fee have risen. For instance, in the last

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<sup>1</sup> American Bar Association 2019 Survey on Lawyer Discipline Systems, Chart VIII.

five years, Tennessee Lawyers' Fund for Client Protection (TLFCP) has received \$1,366,898 in revenue from the \$10 designated to TLFCP per each attorney's \$170 annual registration fee.<sup>2</sup> Conversely, hearing panels of the Board have recommended and the Tennessee Supreme Court has approved Orders of Enforcement disciplining attorneys and ordering restitution to clients totaling more than six million dollars. TLFCP's income and steadily declining reserves cannot meet the need created by dishonest conduct of a few attorneys. To adequately fund TLFCP, and other Tennessee Supreme Court agencies such as Tennessee Lawyers Assistance Program (TLAP), and Access to Justice (ATJ), the Board supports an increase in attorney's annual registration fees.

Tenn. Sup. Ct. R. 25 Section 13 limits claims paid by TLFCP with caps for each individual claimant, per attorney, per transaction and subject to the aggregate assets of the Fund. TLFCP's petition seeks to increase the attorney cap from \$250,000 to \$400,000. Twenty jurisdictions have no limitation per attorney and Tennessee's current attorney cap of \$250,000 is less than the national average cap of \$271,500.<sup>3</sup> To provide claimants with more timely and complete restitution, the Board supports raising the limitation per attorney from \$250,000 to \$400,000 when recommended by the Board and with the approval of the Court.

Only four jurisdictions have an aggregate cap for their Lawyers' Fund. Accordingly, the Board supports TLFCP's petition to modify Tenn. Sup. Ct. R. 25 Section 13 to enable the Board to have discretion to recommend and the Court approve payments exceeding the 10% aggregate limit. This amendment giving the Board and the Court latitude to exceed the aggregate cap would be consistent with

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<sup>2</sup> Tennessee Lawyers' Fund for Client Protection, Final Financial Statement (2016-2017 - 2020-2021).

<sup>3</sup> American Bar Association 2017-2019 Survey on Lawyers' Fund for Client Protection, Appendix G.

the parameters given regarding other limitations per claimant, attorney and transaction as set forth in Tenn. Sup. Ct. R. 25 Section 13.

Lastly, in keeping with the Board's mission of protecting the public and educating attorneys and judges, the Board supports TLFCP's petition to publicize payments of claims to state judges, the Bar and the public.

RESPECTFULLY SUBMITTED,



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Floyd Flippin (BPR No. 010442)  
Chair,  
Board of Professional Responsibility  
of the Supreme Court of Tennessee  
1302 Main Street  
PO Box 160  
Humboldt, TN 38343





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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 emailed to Joycelyn Ashanti Stevenson, Esq., Executive Director, Tennessee Bar Association, at [jstevenson@tnbar.org](mailto:jstevenson@tnbar.org), on this the 21<sup>st</sup> day of April 2022.

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

By:   
Sandy Garrett (BPR No. 013863)  
Chief Disciplinary Counsel

**From:** Chelsea Harris <charris@pdknox.org>  
**To:** <appellatecourtclerk@incourts.gov>  
**Date:** 4/7/2022 3:53 PM  
**Subject:** [No. ADM2022-00281] IN RE: PETITION TO AMEND, TENNESSEE SUPREME COURT RULE 9 AND RULE 25

Good evening:

I'd like to express my objection to the proposed increase of the annual attorney registration fee in In re: Petition to Amend Tennessee Supreme Court Rule 9 and Rule 25, No. ADM2022-00281 (filed 03/11/2022).

I am a lifelong resident of Tennessee and have been admitted to practice law since 2015. My husband and I are both assistant public defenders in Knoxville, Tennessee. We went to law school because we love our state and want to help those without resources to hire an attorney. However, the financial burden of practicing law has been a heavy weight that makes us question that original decision to go to law school. We have student loan debt totally nearly \$500,000 though neither of us have ever missed a payment since graduating law school in 2014 and 2015. The \$400 tax and the \$170 fee to practice law are already burdensome. I am now pregnant with our first child and want to be able to tell her that her mom and dad don't regret pursuing higher education in Tennessee, becoming lawyers, and using our degree to work for our state, serving those most in need. While \$30 will not kill us or cause us to default on our mortgage, it will send a signal that the legal profession is simply too costly to justify obtaining a license to pursue public interest work.

Sincerely,

Chelsea Harris

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Chelsea Harris  
 Assistant Public Defender, 6th Judicial District  
 1101 Liberty Street, Knoxville, TN 37919  
 ph: (865) 594-3079  
 fax: (865) 594-6169  
 charris@pdknox.org

