

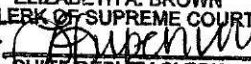
IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE CREATION
OF THE NEVADA SUPREME COURT
ACCESS TO JUSTICE COMMISSION

ADKT 0537

FILED

AUG 05 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
CHIEF DEPUTY CLERK

*ORDER SCHEDULING PUBLIC HEARING
AND REQUESTING PUBLIC COMMENT*

On July 23, 2019, the Nevada Supreme Court Access to Justice Commission filed a petition to amend Supreme Court Rules (SCR) 217(2) regarding creation and maintenance of interest-bearing trust accounts interest minimum standards. The proposed amendments are attached as Exhibit A.

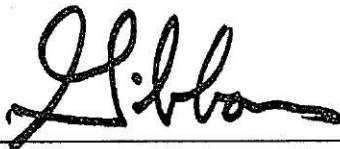
The Nevada Supreme Court will conduct a public hearing on the petition on Thursday, September 5, 2019, at 1:30 p.m. in the Nevada Supreme Court Courtroom, 201 South Carson Street, Carson City, Nevada. The hearing will be videoconferenced to the Nevada Supreme Court Courtroom, 408 East Clark Avenue, Las Vegas, Nevada.

Further, this court invites written comment from the bench, bar, and public regarding the proposed amendments. Comments may be submitted electronically or in hard-copy format to: Elizabeth A. Brown, Clerk of the Supreme Court, 201 South Carson Street, Carson City, Nevada 89701 by 5:00 p.m., August 27, 2019. Persons interested in participating in the hearing must notify the Clerk no later than August 27, 2019.

Hearing date: September 5, 2019, at 11:30 a.m.
Supreme Court Courtroom
201 South Carson Street
Carson City, Nevada 89701

Comment deadline: August 27, 2019, at 5:00 p.m.
Supreme Court Clerk's Office
201 South Carson Street
Carson City, Nevada 89701

DATED this 5th day of August, 2019.


_____, C.J.
Gibbons

cc: Paul Matteoni, President, State Bar of Nevada
Kimberly Farmer, Executive Director, State Bar of Nevada
All District Court Judges
Clark County Bar Association
Washoe County Bar Association
First Judicial District Bar Association
Administrative Office of the Courts

EXHIBIT A

Rule 217. Creation and maintenance of interest-bearing trust accounts. A member of the state bar or the member's law firm shall create or maintain an interest-bearing trust account for clients' funds which are nominal in amount or to be held for a short period of time in any banking, credit union, or savings and loan association which is in compliance with the following provisions:

1. An interest-bearing trust account established pursuant to this rule may be established with any state bar approved bank, credit union, or savings and loan association authorized by federal or state law to do business in Nevada, located in Nevada and insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation or other financial institution approved by the state bar pursuant to Rule 78.5 of these rules. Funds in each interest-bearing account shall be subject to withdrawal upon request and without delay.

2. Interest minimum standards. The Nevada Supreme Court Access to Justice Commission shall review and set twice annually the rate(s) of interest payable upon any interest-bearing trust account and make the rate(s) public at least 30 days prior to the effective date. ~~[The rate of interest payable upon any interest-bearing trust account shall meet any one of the following minimum standards:]~~

(a) The minimum rate shall be 0.70 percent.

(b) Higher rates offered by the institution ~~[to customers whose deposits exceed certain time or quantity minima, such as those offered in the form of certificates of deposit,]~~ are permissible so long as there is no impairment of the right to withdraw or transfer principal immediately without penalty.

~~[(a) The 30-day LIBOR minus .50 percent, or, the Federal Discount Rate plus .50 percent, whichever is greater; or~~

~~(b) Equal to the Federal Fund Target Rate, or, the Federal Discount Rate plus .50 percent, whichever is greater; or~~

~~— (c) Equal to or greater than an flat interest rate, which rate shall be reviewed and approved by the Access to Justice Commission twice annually and made public at least 30 days prior to the effective date.~~

~~— (d) Higher rates offered by the institution to customers whose deposits exceed certain time or quantity minima, such as those offered in the form of certificates of deposit, are permissible so long as there is no impairment of the right to withdraw or transfer principal immediately without penalty.]~~

3. Fees prohibited. Accounts under this rule shall be exempt from service charges and fees.

4. Reporting. A member of the state bar or the member's law firm establishing such account shall:

(a) Direct the depository institution to:

1 (i) remit interest or dividends, as the case may be, on the average monthly
2 balance in the account or as otherwise computed in accordance with an
3 institution's standard accounting practice at least monthly, to the designated tax-
4 exempt foundation pursuant to Rule 216;

5 (ii) transmit with each remittance in an electronic format to be specified
6 by the designated tax-exempt foundation a statement which shall include:

7 (1) the name of the member of the state bar or the member's law firm for
8 whom the remittance is sent;

9 (2) the rate of interest applied;

10 (3) the account number for each account;

11 (4) the average amount on deposit for each account;

12 (5) the rate and type of interest or dividends remitted;

13 ~~[(6) the amount and type of charges or fee deducted, if any;]~~

14 ~~[(7) the average account balance for the monthly period for which the report~~
15 ~~is made; and~~

16 (iii) transmit to the depositing member of the state bar or the member's
17 law firm at the same time a report showing the amount paid to the designated tax-
18 exempt foundation; and

19 (b) Establish and follow reasonably prudent procedures to verify, at least
20 annually, that each account maintained under this rule is on deposit with an
21 institution currently listed by the designated tax-exempt foundation as operating in
22 compliance with the Interest Minimum Standards set forth in subsection 2 above.
23 Member verification shall be reported to the [S]state [B]bar, by completing and
24 submitting a form provided with the annual membership fee statements.

25 5. Exceptions. If the member or the member's law firm does not maintain
an office within 20 miles of a complying financial institution pursuant to
subsection 6:

(a) The minimum interest standards set forth in subsection 2 (a)-(c) are
waived; and

(b) The reporting requirements of subsection 4(a)(ii) are partially waived such
that the member must direct the depositing institution to report at least quarterly,
electronically if possible, to include at a minimum the name of the member of the
state bar or the member's law firm for whom the remittance is sent and the rate of
interest applied.

Notice of waiver shall be reported by the member or member's law firm annually
on a form to be provided by the state bar with annual membership fee statements.

6. List of complying financial institutions. The designated tax-exempt
foundation shall maintain an accurate and up-to-date list of all financial institutions
as defined in subsection 1 above, which are in compliance with the Interest
Minimum Standards set forth in subsection 2 above. This list shall be provided to

1 the [S]state [B]bar by the designated tax-exempt foundation, posted on the [S]state
2 [B]bar's website and published in other media from time to time to facilitate
members' compliance with this rule.

3 ~~[7. Effective dates; compliance monitoring. The amendments to this rule~~
4 ~~mandated by order dated December 16, 2009, shall be effective 30 days from entry~~
5 ~~of order. The designated tax-exempt foundation pursuant to Rule 216 shall begin~~
6 ~~monitoring banking compliance within 30 days of the effective date and provide~~
7 ~~reports at least quarterly to the Access to Justice Commission and the State Bar of~~
8 ~~Nevada. The first member reporting required pursuant to subsection 5(b) shall~~
9 ~~begin in 2010, and reported in the 2011 annual membership fee statements.]~~

7 [8]7. Non-compliance; assessment/suspension. Active members who fail to
8 meet the requirements of this rule shall be notified of their non-compliance, in
9 writing, by the [S]state [B]bar. Upon the expiration of 30 days from the date the
[S]state [B]bar sends the member notice of non-compliance, said non-compliant
member shall be:

10 (a) Assessed \$200, payable within 30 days to the designated tax-exempt
11 foundation pursuant to Rule 216; and

12 (b) Suspended from membership in the [S]state [B]bar, but may be reinstated
13 upon filing verification of compliance on a form to be provided by the [S]state
[B]bar.

14 Supplying false information in response to the requirements of this rule shall
subject the member to appropriate disciplinary action.