

IN THE SUPREME COURT OF MISSISSIPPI

No. 89-R-99018-SCT

IN RE: RULES OF PROFESSIONAL CONDUCT

ORDER

This matter is before the Court en banc on the Mississippi Bar's Petition for Amendment of Rule 1.8(e), MRPC, Authorizing the payment of Personal Living Expenses and Reasonable and Necessary Medical Expenses under Certain Conditions. Having considered the petition, the Court finds that, with modifications, the relief sought will advance the fair and efficient administration and that the petition should, with such modifications, be granted.

IT IS THEREFORE ORDERED that Rule 1.8(e) of the Mississippi Rules of Professional Conduct be, and it is hereby amended, to read as follows.

A lawyer shall not provide financial assistance to a client in connection with pending or contemplated litigation, or administrative proceedings, except that:

1. A lawyer may advance court costs and expenses of litigation, including but not limited to reasonable medical expenses necessary to the preparation of the litigation for hearing or trial, the repayment of which may be contingent on the outcome of the matter; and
2. A lawyer representing a client may, in addition to the above, advance the following costs and expenses on behalf of the client, which shall be repaid upon successful conclusion of the matter.
 - a. Reasonable and necessary medical expenses associated with treatment for the injury giving rise to the litigation or administrative proceeding for which the client seeks legal representation; and
 - b. Reasonable and necessary living expenses incurred.

The expenses enumerated in paragraph 2 above can only be advanced to a client under dire and necessitous circumstances, and shall be limited to minimal living expenses of minor sums such as those necessary to prevent foreclosure or repossession or for necessary medical treatment. There can be no payment of expenses under paragraph 2 until the expiration of 60 days after the client has signed a contract of employment with counsel. Such payments under paragraph 2 cannot include a promise of future payments, and counsel cannot promise any such payments in any type of communication to the public, and such funds may only be advanced after due diligence and inquiry into the circumstances of

the client.

Payments under paragraph 2 shall be limited to \$1,500 during the continuation of any litigation unless, upon ex parte application, such further payment has been approved by the Standing Committee on Ethics of the Mississippi Bar. Such applications and the decisions thereon shall be confidential, and upon denial of such application, the decision thereon shall be subject to review by the Mississippi Supreme Court on petition of the attorney seeking leave to make further payments.

IT IS FURTHER ORDERED that the Clerk of the Court shall spread this Order upon the minutes of the Court and shall forward a true certified copy hereof to West Publishing Company for publication in the *Southern Reporter (Mississippi Edition)* and in the *Mississippi Rules of Court*.

SO ORDERED, this, the _____ day of March, 1999.

EDWIN LLOYD PITTMAN, PRESIDING
JUSTICE, FOR THE COURT

MCRAE, J., NOT PARTICIPATING