

**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 Motion for Rehearing filed by Lance L. Stevens and Roderick W. Ward seeking rehearing on and denial of 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. The Bar's petition was granted, with modifications of the relief sought, by Order of the Court entered March 25, 1999.

Having considered the Motion for Rehearing, the Court finds that it should be denied. However, having considered other suggestions made by Stevens and Ward in their petition, it is found that certain further amendments to Rule 1.8(e) should be made for the regulation of payments under the rule.

IT IS THEREFORE ORDERED that Rule 1.8(e) of the Mississippi Rules of Professional Conduct be amended to read set forth in Exhibit "A" to this Order.

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 October, 1999.

EDWIN LLOYD PITTMAN, PRESIDING JUSTICE, FOR THE COURT

McRAE, J. DISAPPROVES

EXHIBIT "A" TO ORDER  
AMENDING MRPC 1.8(e)

[Added text indicated by underscoring.]

**RULE 1.8 CONFLICT OF INTERESTS:  
PROHIBITED TRANSACTIONS**

.....

(e) 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 to any one party by any lawyer or group or succession of lawyers 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. An

attorney contemplating such payment must exercise due diligence to determine whether such party has received any such payments from another attorney during the continuation of the same litigation, and, if so, the total of such payments, without approval of the Standing Committee on Ethics shall not in the aggregate exceed \$1,500. ~~Such applications and the decisions thereon shall be confidential, and upon~~ 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. Payments under paragraph 2 aggregating \$1,500 or less shall be reported by the lawyer making the payment to the Standing Committee on Ethics within seven (7) days following the making of each such payment. Applications for approval by the Standing Committee on Ethics as required hereunder and notices to the Standing Committee on Ethics of payments aggregating \$1,500 or less, shall be confidential.

[Amended October 21, 1999.]