

STATE OF MINNESOTA

IN SUPREME COURT

C9-81-1206
C0-85-2205

ORDER FOR HEARING TO CONSIDER PROPOSED
AMENDMENTS TO THE RULES OF THE SUPREME COURT
FOR REGISTRATION OF ATTORNEYS AND THE RULES
OF THE MINNESOTA CLIENT SECURITY BOARD

IT IS HEREBY ORDERED that a hearing be had before this Court in Courtroom 300 of the Minnesota Supreme Court, Minnesota Judicial Center, on November 17, 1993 at 1:30 p.m., to consider the petition of the Minnesota State Bar Association to amend the Rules of the Supreme Court for Registration of Attorneys and the Rules of the Minnesota Client Security Board. A copy of the petition containing the proposed amendments is annexed to this order.

IT IS FURTHER ORDERED that:

1. All persons, including members of the Bench and Bar, desiring to present written statements concerning the subject matter of this hearing, but who do not wish to make an oral presentation at the hearing, shall file 12 copies of such statement with Frederick Grittner, Clerk of the Appellate Courts, 245 Judicial Center, 25 Constitution Avenue, St. Paul, Minnesota 55155, on or before November 12, 1993 and
2. All persons desiring to make an oral presentation at the hearing shall file 12 copies of the material to be so presented with the aforesaid Clerk together with 12 copies of a request to make an oral presentation. Such statements and requests shall be filed on or before November 12, 1993.

Dated: September 17, 1993

BY THE COURT:

OFFICE OF
APPELLATE COURTS

SEP 20 1993

FILED



A.M. Keith
Chief Justice

STATE OF MINNESOTA
IN SUPREME COURT
Nos. C9-81-1206 & C0-85-2205

OFFICE OF
APPELLATE COURTS

AUG 26 1993

FILED

In re:

Amendment of the Rules of the Supreme Court for
Registration of Attorneys and Rules of the
Client Security Board

PETITION OF MINNESOTA STATE BAR ASSOCIATION

Petitioner Minnesota State Bar Association ("MSBA") respectfully petitions this Honorable Court to amend the Rules of the Supreme Court for Registration of Attorneys and Rules of the Minnesota Client Security Board.

1. Petitioner Minnesota State Bar Association ("MSBA") is a not-for-profit corporation of attorneys authorized to practice before this Honorable Court and the other courts of this state.

2. This Honorable Court has the exclusive and inherent power and duty to administer justice and to adopt rules of practice and procedure before the courts of this state and to establish the standards for regulating the legal profession. This power has been expressly recognized by the Legislature. See Minn. Stat. § 480.05 (1992).

3. This Honorable Court has adopted the Rules of the Supreme Court for Registration of Attorneys and the Rules of the Minnesota Client Security Board. Pursuant to those rules, this Honorable Court has jurisdiction and control over the Client Security Fund ("Fund") and the administration of the Fund.

4. In 1987 this Honorable Court amended the Rules of the Supreme Court for Registration of Attorneys to assume jurisdiction over the Fund. Theretofore, the Fund had been administered as a voluntary fund created and established by Petitioner MSBA. At the time the Court assumed jurisdiction over the Fund, it promulgated the Rules of the Minnesota Client Security Board. See Order Creating the Minnesota Client Security Board, No. C0-85-2205 (Minn., Apr. 15, 1986).

5. In 1990 this Honorable Court amended Rule 2 of the Rules of the Supreme Court for Registration of Attorneys. This order also directed the Petitioner, as well as the Client Security Board, to "continue to monitor these rules and amendments and [to] explore ways of permanently financing the Client Security Fund." See In re Amendments to the Rules of the Supreme Court for Registration of Attorneys, No. C9-81-1206 (Minn., Nov. 14, 1990).

6. Pursuant to the 1990 Order, in early 1991 the MSBA established a Client Protection Committee ("MSBA Committee") to consider issues and problems arising under the existing Rules governing the administration and financing of the Fund. The MSBA Committee studied these issues in detail, met at least eleven times between early 1991 and early 1993, and issued its Report of the Client Protection Committee ("Report") on January 29, 1993. A true and correct copy of this Report is attached to this Petition as Exhibit A and by this reference is made part hereof.

7. The MSBA accepted the Report and resolved to carry out its recommendations by action of its Board of Governors on April 24, 1993, and of its General Assembly on June 24, 1993, at its annual convention. This Petition was authorized and endorsed at that time.

8. The MSBA respectfully recommends and requests this Court to amend the Rules of the Supreme Court for Registration of Attorneys and the Rules of the Minnesota Client Security Board as follows:

a) Rule 2 of the Rules of the Supreme Court for Registration of Attorneys should be amended to retain the existing language of the rule but to delete the provision of the order adopting the rule that causes the \$20.00 fee to be collected only until July 1, 1995. See Order, In re Amendments to the Rules of the Supreme Court for Registration of Attorneys, No. C9-81-1206, ¶ 5 (Minn., Nov. 14, 1990). Petitioner requests that the fee be collected permanently, pending further order of the Court and that the Minnesota Client Security Board be directed to advise the Court in the Board's annual report when the Fund's reserve account reaches \$2,500,000 in value.

This amendment is requested to implement Recommendation 1 of the Report.

b) Rule 3.14 of the Rules of the Minnesota Client Security Board should be amended to add a new subdivision (c) as follows:

RULE 3.14 DETERMINATION

* * *

c. The maximum amount that may be paid to any claimant for a single claim is \$100,000. In exceptional circumstances, the Board may allow a greater or lesser amount based on the factors set forth in subdivision (b) of this rule.

This amendment is requested to implement Recommendation 2 of the Report and is intended both to establish and modify the \$50,000 payment cap that has been traditionally followed by the Board and to increase that cap to \$100,000. Heretofore the Board has followed the practice of not paying more than \$50,000 on any one claim, but this practice is an unwritten rule. Petitioner respectfully submits it should be made explicit as well as increased in amount to \$100,000.

c) Rule 3.14 of the Rules of the Minnesota Client Security Board should be amended to add a new subdivision (d) as follows:

RULE 3.14 DETERMINATION

* * *

d. The Board may award interest on any award at the rate of interest payable on judgments on a discretionary basis from the date of filing the claim. In determining the amount of interest, if any, the Board may consider:

- (1) The length of time between filing the claim and its disposition;
- (2) The existence of third-party litigation; and
- (3) Other factors outside the control of the Board.

This recommendation is made to implement Recommendation 3 of the Report.

9. Petitioner considered, but recommends no action on, suggestions that the rules be amended to provide for mandatory judicial review of Client Security Board decisions. The reasons for this recommendation are set forth in the Report at 90-91.


10. In addition to the foregoing rule amendments, Petitioner respectfully urges this court to consider appointment, from time to time, of an attorney from the public service sector as one of the lawyer members of the Client Security Board.

Based upon the foregoing authorities and the Report attached as Exhibit A, Petitioner Minnesota State Bar Association respectfully requests that this Honorable Court implement the rules amendments proposed in Paragraph 8, above and to take the further action regarding appointments to the Client Security Board as set forth in Paragraph 10.

Date: This ___ day of August, 1993.

Respectfully submitted,

MINNESOTA STATE BAR ASSOCIATION

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Its President

and

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