

STATE OF MINNESOTA

IN SUPREME COURT

C9-81-1206

**ORDER ESTABLISHING DEADLINE FOR SUBMITTING COMMENTS ON
PROPOSED AMENDMENT TO RULE 9 OF THE RULES OF THE SUPREME
COURT FOR ATTORNEY REGISTRATION**

WHEREAS, Rule 9 of the Rules of the Supreme Court for Attorney Registration only permits distribution of the attorney registration list to "bona fide continuing legal education" providers; and,

WHEREAS, Rule 9 states that the public may inspect the attorney registration list but may not use the names for "mailing lists, for advertising or nonofficial use;" and

WHEREAS, the Court appointed a committee, in an order filed January 25, 2000, to examine whether the public should be given greater public access to attorney registration information; and

WHEREAS, the committee discovered that the identity, location, and license status of other professionals licensed by the state of Minnesota are accessible to the public in various formats, including searchable internet databases, electronic database files, and printed mailing lists; and

WHEREAS, the committee has proposed replacing Rule 9 with a new provision that would, if adopted, authorize public access to attorney registration information in any available format, including a searchable Internet database, an electronic database file, and a printed mailing list:

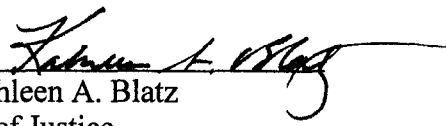
RULE 9. ACCESS TO ATTORNEY REGISTRATION RECORDS

A record of all those who are admitted to practice law in this state shall be accessible to the public. The record shall include name, address, admission date, continuing legal education category, current status, and license number of each registered attorney. Trust account information submitted by attorneys as part of the attorney registration process are not accessible to the public except as provided in the Rules of Lawyer Trust Account Board.

IT IS HEREBY ORDERED that any individual wishing to provide statements in support or opposition to the proposed amendment shall submit twelve copies in writing addressed to Frederick K. Grittner, Clerk of the Appellate Courts, 25 Constitution Avenue, St. Paul, Minnesota 55155, no later than Monday, April 17, 2000.

Dated: February 23, 2000

BY THE COURT:


Kathleen A. Blatz
Chief Justice

OFFICE OF
APPELLATE COURTS

FEB 23 2000

FILED

Nicole L. Fredricks

921 - 4th Avenue N.E.
Brainerd, MN 56401

OFFICE OF
APPELLATE COURTS

MAR 17 2000

FILED

March 3, 2000

Frederick K. Grittner
Clerk of the Appellate Courts
25 Constitution Avenue
St. Paul, MN 55155

C9-81-1206

Dear Mr. Grittner:

Please accept this letter in opposition in part to the proposed amendment to Rule 9, Access to Attorney Registration Records.

Presently I work as an Assistant County Attorney, primarily in the area of criminal prosecution. When I pay my Attorney Registration Fees I generally provide my home address rather than my work address, as my employment is subject to change as I begin my career. I am a young, female person working in a job which is inclined to bring with it some enemies. As such, I do have some concerns, primarily safety concerns, over my address being public record. Therefore, I ask that the proposed amendment to Rule 9 be reconsidered so as to not make attorney addresses public record.

Thank you for your time and consideration.

Very truly yours,



Nicole L. Fredricks
Attorney Registration No. 276662

William E. Jepsen, *Chair*
Gail Chang Bohr
Joseph T. Carter
Joanell M. Dyrstad
Diana R. Gruendler
Sean E. Hade
Merritt R. Marquardt
Wesley J. Matson
Marshall H. Tanick
Hon. Donald J. Venne
Eileen M. Wells
David L. White
Bruce R. Williams



THE SUPREME COURT OF MINNESOTA
BOARD OF CONTINUING LEGAL EDUCATION

OFFICE OF
APPELLATE COURTS

Minnesota Judicial Center
25 Constitution Avenue
Suite 110
St. Paul, Minnesota 55155
(651) 297-7100
(651) 296-5866 Fax

TTY Users
1-800-627-3529
Ask For 296-4541

Margaret Fuller Corneille, Esq.
Director

Daina Banks
Administrator

April 17, 2000

APR 17 2000

FILED

Frederick K. Grittner
Clerk of the Appellate Courts
Minnesota Judicial Center
25 Constitution Avenue
St. Paul, MN 55155

RE: Proposed Amendment to Attorney Registration Rule 9

Dear Mr. Grittner:

This is in response to the Court's Order of February 23, 2000, requesting comment on the proposed Attorney Registration Rule 9. The amended provision will make certain information about licensed Minnesota attorneys a matter of public record, including their "continuing legal education category" and "current status."

The language as proposed may conflict with the Board of Continuing Legal Education's Rule 5 which provides for confidentiality of attorneys' continuing legal education (CLE) records if they fail to comply with CLE requirements.

The full text of CLE Rule 5 provides as follows:

Rule 5. Confidentiality

Unless otherwise directed by this Court, the files, records, and proceedings of the State Board of Continuing Legal Education, *as they may relate to or arise out of any failure of an active attorney to satisfy the continuing legal education requirements shall be deemed confidential* and shall not be disclosed except in furtherance of its duties, or upon request of the attorney affected, or as they may be introduced in evidence or otherwise produce in proceedings in accordance with these rules.
(emphasis added)

Frederick K. Grittner
Clerk of the Appellate Courts
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This provision has been interpreted to mean that the files and records of the CLE office pertaining to any attorney who has not timely filed affidavits of attendance or who disputes the Board's conclusions with regard to compliance are afforded confidentiality until a final determination is made with regard to CLE compliance. If the attorney's appeal is not successful and the Court issues an order placing the attorney on restricted status, that fact becomes a matter of public record. If the attorney resolves the CLE compliance issue then his/her CLE records are no longer confidential. It is my understanding that this provision was intended to permit attorneys with good faith disagreements with the Board to exercise their appeal rights without the embarrassment of public disclosure while the appeal was being heard.

In order to allow this CLE provision to continue operating as it has for many years, an additional provision would need to be added to proposed Attorney Registration Rule 9 stating that publication is subject to the restrictions of CLE Rule 5. Such a revision could be stated:

Rule 9. Access to Attorney Registration Records

A record of all those who are admitted to practice law in this state shall be accessible to the public subject to the provisions of Rule 5 of the Rules of the Supreme Court and Rules of the Board for Continuing Legal Education of Members of the Bar. The record shall include name, address, admission date, continuing legal education category, current status, and license number of each registered attorney. Trust account information submitted by attorneys as part of the attorney registration process are not accessible to the public except as provided in the Rules of Lawyer Trust Account Board.

Another issue with respect to proposed Attorney Regulation Rule 9 involves the meaning and possible future interpretation of the phrase "current status." It is my understanding that under the current Minnesota Attorney Registration System (MARS) attorneys are designated as being in one of each of the following statuses:

- One of ten (10) "practice status" designations: active, legal probation, deceased, disbarred, legal suspension, suspended for non-payment, resigned, disability, inactive, and suspension with exception.
- One of five (5) "payment classes": practicing, retired, non-resident, practicing less than three years, and military.
- One of six (6) "CLE categories": "1," "2," "3," (designating the appropriate 3-year reporting cycle); "4" (attorneys who are placed on "involuntary restricted status" by order of the Supreme Court because they have failed to comply

Frederick K. Grittner
Clerk of the Appellate Courts
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with CLE requirements); "R" (attorneys choosing to be on "voluntary restricted status" because they are no longer practicing and are no longer residents of the state) and "O" (attorneys who designate themselves as retired and who pay no attorney registration fee).

Depending on the type of information that is to be made public, a member of the public requesting and receiving "status" information could be confused by the meaning of the designations. For example, an attorney whose practice status is "active" appears to be entitled to practice. However, the attorney may not be so entitled because the status "active" is merely a default category within the practice statuses. If the attorney has chosen "retired" as to the payment class, the attorney is not entitled to practice even though the status is "active." This is merely one example of how the interrelationship among the designations could be misleading. Perhaps a detailed explanation as to the meaning of payment class, practice status and CLE category information would address this concern.

Thank you for allowing me the opportunity to comment. I hope this information is of some value as the Court considers how this rule might be amended.

Very truly yours,

MINNESOTA BOARD OF LAW EXAMINERS



Margaret Fuller Corneille
Director

bb



Admin
MINNESOTA

Department of Administration

Information Policy Analysis Division
305A Centennial Office Building
658 Cedar Street
St. Paul, MN 55155

OFFICE OF APPELLATE COURTS VOICE: 651.296.6733 or 800.657.3721
FAX: 651.205.4219

April 14, 2000

APR 17 2000

Frederick K. Grittner
Clerk of the Appellate Courts
25 Constitution Avenue
St. Paul, Minnesota 55155

FILED

Re: Comment on Proposed Amendment to Rule 9 of the Rules of the Supreme Court for Attorney Registration

Dear Mr. Grittner:

In its order of February 23, 2000, the Supreme Court has requested comments on a proposed amendment to Rule 9 of the Rules of the Supreme Court. The proposed amendment would make information about attorneys licensed to practice law in Minnesota available to the public. We would like to offer these comments for consideration by the Court.

While it is true that information about other individuals who hold licenses issued by the State of Minnesota is accessible by the public, it is also true that in many instances those individuals have the opportunity to request that information about them not be disclosed for commercial purposes or if there are security concerns. This applies to information provided by Minnesota's Bookstore about license holders, to the Department of Public Safety who must comply with federal law governing the right of individuals to restrict access to their driver's license and motor vehicle license information and to state health licensing boards.

The right of the public to know who is licensed to practice in this State must be balanced against those attorneys' right to privacy and protection of personal safety. For example, if an attorney's client is stalking him or her because the client is unhappy with the outcome of their case, shouldn't the attorney have the right to protect his or her license information from disclosure? Minnesota Statutes, section 168.346 permits drivers to have their residence address withheld, so long as the driver provides an address for service of process. See also Minnesota Statutes, section 13.42, subdivision 2 (b) which permits a licensee of a health-related licensing board to designate an alternate address. Also, an attorney should be permitted to restrict access to personal information for purposes of commercial use; an idea that is being considered by the Minnesota Legislature as it responds to the public's demand for more privacy protections (See HF 3986; SF 2992).

Frederick K. Grittner

April 14, 2000

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The ability to opt out of providing personal information is part of the federal Financial Institutions Modernization Act of 1999 (Public Law 106-102; see sections 501 through 527).

The 1999 Shelby Amendments to the Driver's Privacy Protection Act (Public Law 106-69 amending 18 USC section 2721) require consent before disclosure of driver's license or motor vehicle registration information can be made for marketing or surveys. Attorneys should be afforded the same protections offered to other classes of citizens. Attorneys should also be permitted to protect their personal data in all places held by government if that is what they choose.

Similar protections have been offered in other states. For example, the Medical Board of California gave notice to its license holders that name and address information was going to be posted on the Internet and gave license holders the opportunity to provide an alternate address for posting. In New York, the Senate Majority Task Force on Privacy Invasion issued its recommendations on March 8, 2000 and one of the suggestions was to give citizens the right to opt-out of having personal information sold or shared by data brokers. Minnesota has been recognized as a leader in protecting the privacy of its citizens (*Privacy Journal*, Vol. 25 No. 11, October, 1999). We ask that the Court's resolution of this issue continue Minnesota's strong tradition of recognizing individual privacy rights.

While we recognize the public's right to access information about those of us who are licensed to practice law in this State, we hope the Court will adopt some protections so that we can choose when data about us are made available, as we can do with other types of government data.

Sincerely,



Donald A. Gemberling
Attorney Registration No. 0123936



Katherine A. Engler
Attorney Registration No. 0148672

April 14, 2000

OFFICE OF
APPELLATE COURTS

Frederick K. Grittner
Clerk of Appellate Courts
25 Constitution Avenue
Saint Paul, MN 55155

APR 17 2000

FILED

RE: C9-81-1206

Dear Mr. Grittner,

This letter is in response to the proposed amendment to Rule 9 of the Rules of the Supreme Court for Attorney Registration. I am in strong opposition to this amendment as it relates to address data.

I am an independent contractor and, although my business address is my home address, I do not advertise to the general public that they can find legal services at this address. The attorneys that choose to put their names and addresses out for easy access by the general public are doing so via the yellow pages, the internet, and many other creative uses of their advertising dollars. Let this be a choice.


Also, I am currently inundated with unsolicited, extraneous, and irrelevant mail at this address. I am not waiting for the next new low introductory rate credit card offer, nor does it appear that the credit companies are going out of business without me. The organizations to which I belong, and the professional subscriptions that I maintain, provide me with more than adequate information from which to choose products or services for my practice.

In addition, the only reasons for which the public needs to have access to attorney registration information are 1) to verify legitimacy; and 2) to have sufficient information for reporting unprofessional conduct. Neither one of these involves or requires the release of my personal address.

Furthermore, the vast majority of my colleagues from law school are licensed but non-practicing attorneys. For these individuals, any registered addresses are purely private addresses. It would be an unconscionable invasion of their privacy for the Court to sell this information.

I urge the Court to remove the attorney address from consideration in the proposed amendment to Rule 9.

Sincerely,


Leslie A. Goranson

ADAMS
SCHINZING &
ASSOCIATES P.A.

April 14, 2000

OFFICE OF
APPELLATE COURTS

Frederick K. Grittner
Clerk of Appellate Courts
25 Constitution Avenue
Saint Paul, MN 55155

APR 17 2000

FILED

RE: C9-81-1206

Dear Mr. Grittner,

This letter is in response to the proposed amendment to Rule 9 of the Rules of the Supreme Court for Attorney Registration. I am in strong opposition to this amendment as it relates to address data.

Both my Husband and I are licensed attorneys in the State of Minnesota. I am practicing law. My husband is not practicing law, but instead has chosen a professional career. Subsequently, my registration information lists the address for my law firm and my husband's lists our home address.

Although both my husband and I believe that it is a responsibility and a privilege to be a licensed attorney in the State on Minnesota, the cost of releasing our private home information is more than I think should be required for such privilege. In today's world we are already overwhelmed with unsolicited credit card applications, cell phone offers, car leasing information, legal periodicals and journals, CLE announcements and special offers, information from two undergraduate colleges and of course our law school, it is amazing that we have any family time left over at all. The stereotype image that all attorneys are wealthy leads to increased interest in purchasing our names from the ABA, MSBA and our law school. I do not believe that the Supreme Court, vis a vis mailing lists and downloads of this data, should be another source for legitimate and some not so legitimate commercial uses of this information.

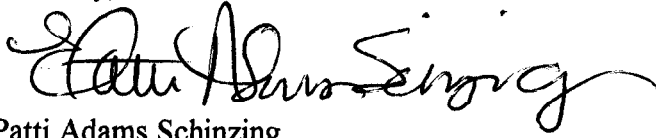
Additionally, I have chosen to rent office space in order to insulate my family from potential harms way. Due to my areas of practice (family law and collections) I have received threats at the office on a number of occasions. I shudder to think of the consequences if these same individuals would have had access to my private home address and my family.

Further, I contend that there is no public need for our address information. I would have no problem with the state releasing information relevant to my current status as it relates to the practice of law, such as attorney license number, status in regard to CLE compliance and an indication as to whether that attorney is currently in good standing.

Finally, I find it interesting that in order for my comments on this issue to be heard, I need to provide 12 copies of this letter to the Court. The Court appears to be more

concerned with providing the general public additional access to us, than providing us access to the Courts. As an officer of the court, I find this situation to be very ironic.

Sincerely,

A handwritten signature in cursive script, appearing to read "Patti Adams Schinzing". The signature is fluid and somewhat stylized, with the first name "Patti" being the most prominent.

Patti Adams Schinzing
Attorney at Law