April 30, 2026

Via Email (appellateclerk@tncourts.gov)

James Hivner, Clerk
Re: Regulatory Reform
100 Supreme Court Building
401 7th Avenue North
Nashville, TN 37219

Re: Public Comment on Potential Regulatory Reforms to Increase Access to Quality Legal Representation (Docket No. ADM2025-01403); Comment in Opposition to Nonlawyer Law Firm Ownership and Fee-Sharing

Dear Mr. Hivner and Honorable Justices of the Tennessee Supreme Court:

The undersigned are the leading organizations representing lawyers who primarily represent defendants in civil litigation. In addition, our organizations include significant stakeholders across the business and civil justice communities. Our members and supporters also include numerous Tennessee employers.

We are writing with respect to issue (7) of the Court's public comment request, which addresses potential modification, or even elimination, of longstanding regulations prohibiting nonlawyer ownership of law firms or fee-sharing with nonlawyers. We applaud the Court's efforts to increase access to justice for Tennesseans, but weakening the longstanding safeguards is unlikely to advance that objective and would create many problems.[1] Erosion of the traditional rule would impair lawyers' professional independence and undermine the integrity of the civil justice system by inviting outside financial interests whose primary goal is a return on investment.[2]

I. Restrictions on Nonlawyer Ownership and Fee-Sharing Serve Vital Purposes

As the Court is aware, the Tennessee Rules of Professional Conduct are patterned on the American Bar Association (ABA) Model Rules of Professional Conduct,[3] including the state's restrictions on nonlawyer ownership of law firms and fee-sharing with nonlawyers.[4] The "limitations are to protect the lawyer's independence of professional judgment."[5]

The ABA has reaffirmed this purpose in response to proposals to relax law firm ownership and fee-shifting rules. In 2022, the ABA's House of Delegates adopted Resolution 402, which states that the "sharing of legal fees with non-lawyers and the ownership or control of the practice of law by non-lawyers are inconsistent with the core values of the legal profession."[6] The ABA took this approach to "leave no doubt" that, as state supreme courts and bar associations consider

---

[1] For a robust discussion, see William W. Large, U.S. Chamber of Com. Inst. for Legal Reform, *Selling Out: The Dangers of Allowing Nonattorney Investment in Law Firms* (Jan. 2023).
[2] *See* Marta-Ann Schnabel, Thomas J. Hurney, Jr. & Susan Gunter, *Nonlawyer Investment in the Legal Economy*, The Center: The Voice of the Civil Defense Bar (2022), at 9 ("nonlawyer legal service providers are under no obligation to engage in business practices that consider the client ahead of the bottom line").
[3] *See Wright v. Wright*, 337 S.W.3d 166, 178 (Tenn. 2011) (many jurisdictions, "like Tennessee, have a rule of professional conduct based on the corresponding provision in the ABA's Model Rules").
[4] Tenn. Sup. Ct. R. 8, RPC 1.5(e) and RPC 5.4.
[5] Tenn. Sup. Ct. R. 8, RPC 5.4 cmt. 1; ABA Model Rule of Prof'l Conduct 5.4 cmt. 1.
[6] ABA House of Delegates, Resolution 402 (adopted Aug. 8-9, 2022) (reaffirming Resolution 00A10F (2000)).

ways to improve the administration of justice, "there should be no changes to [the] policy against fee splitting with non-lawyers and non-lawyer ownership of entities delivering legal service."[7]

The report accompanying Resolution 402 discussed reasons why "non-lawyer involvement in the practice of law is such a threat to clients and our system of justice."[8] The report raised ethical and accountability concerns where "non-lawyers are not subject to a lawyer's management authority but share in the fee," including the inability to "assure that the twin pillars of confidentiality and conflicts of interest are observed by the non-lawyer."[9] The report further explained that "[t]he practice of law is a profession and not a business," and has "an entirely different set of values," including "core values such as undivided loyalty to the client, competence, and confidentiality" that are not the focus of nonlawyers.[10] The report also cautioned that "[n]on-lawyer involvement may invite, or at least open the door to, regulation of the practice of law and the legal profession by others besides the courts."[11]

Ethical concerns regarding the impact of outside investment on lawyers' professional independence are not hypothetical. The rapid growth of third-party litigation funding (TPLF) by nonlawyer investors already poses serious legal and ethical challenges for the legal profession. Investors are pouring unprecedented sums of money into financing litigation, seeking to turn the courts into investment opportunities.[12] Hedge funds, institutional investors, foreign sovereign wealth funds, and others front money to law firms in exchange for a share of any settlement or judgment from an individual lawsuit or portfolio of lawsuits.[13] Experts have recognized that TPLF is "reshaping every aspect of the litigation process—which cases get brought, how long they are pursued, when are they settled."[14]

This year, the Tennessee General Assembly addressed some of these issues by passing legislation to regulate the commercial litigation financing industry and create transparency into TPLF agreements for courts and parties. The Governor is expected to sign the bill into law soon.[15]

Investments in law firms by nonlawyers create clear conflicts of interest and raise other serious ethical concerns that undermine a lawyer's professional independence. It may be in a

---

[7] ABA House of Delegates, Report for Resolution 402, at 3-4 (Aug. 2022).
[8] *Id.* at 4.
[9] *Id.* at 5.
[10] *Id.*
[11] *Id.* at 4.
[12] Donald J. Kochan, Op-ed, *Keep Foreign Cash Out of U.S. Courts*, Wall St. J., Nov. 24, 2022, at A13 (TPLF "turns the American justice system into a financial playground by transforming lawsuits into investment vehicles").
[13] Westfleet Insider, 2024 Litigation Finance Market Report, at 3 (dedicated commercial litigation funders had $16.1 billion in assets under management, and had committed $2.3 billion to new litigation financing in 2024); U.S. Gov't Accountability Office, GAO-23-105210, *Third-Party Litigation Financing: Market Characteristics, Data, and Trends* 11-12 (Dec. 2022) (litigation funding industry "more than doubled" from 2017 to 2021).
[14] Leslie Stahl, *Litigation Funding: A Multibillion-dollar Industry for Investments in Lawsuits with Little Oversight*, CBS's "60 Minutes," Dec. 18, 2022 (interview with Professor Maya Steinitz). A recent book by Prof. Elizabeth Chamblee Burch, *The Pain Brokers: How Con Men, Call Centers, and Rogue Doctors Fuel America's Lawsuit Factory* (2026), details an investigation into the involvement of third-party funders in the Pelvic Mesh multi district litigation. At the center of a scheme to recruit plaintiffs was a law firm formed in Washington, D.C. to facilitate nonlawyer investment. Women were recruited via call centers and referred to hand-picked doctors for surgery to increase the value of their claims with costs paid by a funder. The medical practices performing the removal also sold the unpaid bills at a discount to a related medical funder.
[15] H.B. 2108, 2026 Reg. Sess. (Tenn. 2026).

client's best interest to settle a case, but a funder may push the attorney to reject a reasonable settlement offer in pursuit of a "nuclear verdict."[16] Other times, nonlawyer funders may pressure law firms to accept a settlement '"because the [funder] wants a guaranteed return on its investment,' even though the plaintiff may be able to achieve a larger recovery by working up the case and taking it to trial."[17]

Nonlawyer ownership in law firms or expanded fee-sharing could diminish, not improve, access to justice and the quality of legal services. Capital from nonlawyer investors and owners will inevitably flow to practice areas that are profitable. Pro bono, an important part of the profession, would be threatened.[18]

Weakening nonlawyer ownership and fee-sharing rules also threatens to worsen the practice of law for lawyers. As business owners, lawyers have flexibility in deciding what clients they want to represent, how much they want to charge for their services, what hours they want to work, where they want to work, and even what they want to wear to work. If Tennessee's legal profession were to resemble the model of physicians working for medical corporations, with lawyers becoming salaried employees of legal services corporations, lawyers would become mere revenue producing units for outside business owners.[19] Such a transformation in the practice of law could turn many would-be lawyers away from the profession, undermining access to justice.

II. The Experience of Other Jurisdictions Demonstrates Why Tennessee Should Maintain Its Restrictions on Nonlawyer Ownership and Fee-Sharing

"Perhaps the most prevalent justification offered by the proponents of non-lawyer profit-sharing reform has been that it will lead to greater access to justice."[20] There is, however, "no evidence that nonlawyer ownership actually improves access to justice for the needy."[21] Several jurisdictions have experimented with loosening rules against nonlawyer ownership and fee-sharing but the efforts have not provided compelling evidence that doing so benefits the public. In fact,

---

[16] Mark Behrens, *Third Party Litigation Funding: A Call For Disclosure and Other Reforms to Address the Stealthy Financial Product That is Transforming the Civil Justice System*, 34 Cornell J.L. & Pub. Pol'y 1, 7 (2025); *see generally* Cary Silverman & Christopher E. Appel, U.S. Chamber Inst. for Legal Reform, *Nuclear Verdicts: An Update on Trends, Causes, and Solutions*, at 40-43 (May 2024) (study of large verdicts in personal injury and wrongful death cases over 10-year period).

[17] Behrens, *supra*, at 7.

[18] Bailey Cunningham, *Nonlawyer Ownership of Law Firms: A Recurring Debate*, 104 Ill. B.J. 48, 49 (July 2016) ("Investors are likely to put their money where they will see the greatest return, not necessarily where they can do the most good. Investors have little incentive to promote pro bono work or increase access to justice when those projects do not reap financial rewards.").

[19] Melissa D. Mortazavi, *What Lawyers Could Learn From The Corporate Practice of Medicine*, 77 Wash. U. L.J. & Pol'y 212, 212-213 (2025) (stating "that influx of nonlawyer capital is likely to increase the risk of consolidation of services which could impact negatively client access and contribute to professional autonomy disenfranchisement.").

[20] ABA House of Delegates, Report for Resolution 402, *supra*, at 3.

[21] Stephen P. Younger, *The Pitfalls and False Promises of Nonlawyer Ownership of Law Firms*, 132 Yale L.J. Forum 259, 259 (2022).

momentum has shifted in the opposite direction, with many states tightening restrictions or emphatically rejecting proposals to weaken existing professional responsibility rules.[22]

Utah: In 2020, the Utah Supreme Court authorized a pilot program allowing nonlawyer ownership of law firms through a "regulatory sandbox" designed to test creative alternative business structures (ABS) that reduce "the access-to-justice gap without increasing consumer harm."[23] After four years in effect, including authorization of nearly 70 entities under the program, the Utah Supreme Court decided to "narrow the scope of the Sandbox" because data gathered from the project showed that many of the entities did nothing to improve access to justice.[24] The court found that "low-innovation entities … consumed a disproportionate amount" of the program's resources, that "[s]ome ABS entities appear to have misused their Sandbox authorization to bolster their credibility or gain access to restricted advertising markets," and that "many ABS entities appear to have misconstrued their authorizations as permitting them to offer legal services provided by non-Utah-licensed attorneys."[25] In short, financially motivated nonlawyers co-opted the program.

The court responded by narrowing its ABS "innovation requirement" to set a "fairly high bar for participation in the Sandbox."[26] "Going forward, all Sandbox entities must demonstrate that their service models will significantly benefit Utah consumers."[27] The court anticipates that this change will cull "low-innovation, Alternative Business Structure-only entities" that comprise approximately three-quarters of the pilot program.[28]

Arizona: In 2021, the Arizona Supreme Court eliminated Ethical Rule 5.4, allowing nonlawyer ownership of law firms and fee-sharing.[29] By the start of 2026, the court had approved more than 150 ABS licenses, rejecting only three.[30] Despite the influx of ABS, there does not appear to be a corresponding improvement in access to justice for Arizona's indigent population.

ABS have, instead, generated widespread concerns.[31] In February 2026, *The Arizona Republic* published a series of articles examining the state's ABS program, finding it has "become

---

[22] Mark Behrens & Christopher Appel, *Proposals to Allow Nonlawyer Ownership of Law Firms, Fee Splitting Experience Rejection*, 37:17 Legal Backgrounder (Wash. Legal Found. Oct. 14, 2022). In 1991, the District of Columbia adopted a limited rule allowing an individual nonlawyer, such as a lobbyist, to hold a financial interest in a law firm, provided the nonlawyer "performs professional services which assist the organization in providing legal services to clients," the nonlawyer abides by the D.C. Rules of Professional Conduct, and firm lawyers "undertake to be responsible for the nonlawyer participants." D.C. Rule of Prof'l Conduct 5.4. Because the DC rule forbids corporate or passive investment, it is excluded from this discussion of recent experimentation and state responses.

[23] Sandbox Phase 2, Office of Legal Services Innovation, Utah Supreme Court.

[24] *Id.*

[25] Utah Supreme Court, Letter to the Utah Legal Services Innovation Committee Regarding Regulatory Sandbox, at 3 (Sept. 5, 2024).

[26] *Id.*

[27] Utah Supreme Court Implements Key Changes to Sandbox Project, 37 Utah B.J. 56 (Nov./Dec. 2024).

[28] *Id.* at 57.

[29] Annual Report of the Committee on Alternative Business Structures to the Arizona Supreme Court, at 3 (Apr. 2021).

[30] Laura Gersony, *Bad Actors: An Arizona Program Lets Wall Street Investors and Other Nonlawyers Own Law Firms, and Consumers Are Paying the Price*, Ariz. Republic, Feb. 22, 2026, *available at* 2026 WLNR 5343941.

[31] Rachel Rippetoe, *Arizona's Law Firm Experiment Faces Conflict Question*, Law360, Apr. 21, 2026 (discussing conflicts of interest and recusals by members of Arizona's ABS committee and complaints against ABS firms, including a 200-page complaint alleging an entity's "efforts to establish an ABS firm in Arizona

an epicenter for consumer complaints, leaving a trail of clients across the United States who say they were mistreated, misled, or … outright 'scammed.'"[32] The investigation reported that "[l]oopholes, a lack of oversight and financial conflicts of interest plague the state's [ABS] program," resulting in a significant portion of licensees being accused of misleading, defrauding, or repeatedly taking advantage of consumers.[33] Several licensees have been accused of "targeting vulnerable people," including those in financial distress or dealing with immigration issues.[34]

The Arizona Republic investigation also found that companies, including Wall Street investors and marketing professionals, "use the program to operate in all 50 states" and that "[i]nvestors—not lawyers—have transformed law firms into call centers, raking in cases that they farm back out to 'partners' across the country."[35] Many of these cases involve personal injury, an already "booming" sector of the state's legal business, leaving the chair of Arizona's Committee on ABS to question, "If we're licensing more personal injury firms, is that really promoting the public interest?"[36] To crack down on referral firms, the Arizona Supreme Court recently adopted more stringent requirements for the state's ABS program. As of March 2026, "ABS law firms must now provide legal services—not just make referrals to other lawyers—and devote part of their business to serving people in Arizona."[37]

California: In October 2025, California enacted legislation to reject "regulatory sandbox" experimentation through 2029.[38] Although ABS law firms were already prohibited from operating in California,[39] the legislation generally prohibits California attorneys from sharing legal fees with an out-of-state ABS-associated attorney. The statute also prohibits fee-sharing with an ABS entity for referral fees or the purchase of leads—a common practice among personal injury law firms. The statute authorizes a $10,000 fine per violation or treble actual damages, permits injunctive relief and the recovery of attorneys' fees, and further mandates that violators shall be disciplined by the California State Bar. In adopting this approach, California has embraced a regulatory framework that ensures the practice of law remains exclusively in the hands of licensed attorneys.

---

were improperly driven by the company's private equity backer putting 'revenue over ethics.'"); Valerie Richardson, *Arizona Model Allowing Non-lawyers to Own Law Firms Shakes Legal Profession*, Wash. Times, Apr. 27, 2026 (stating that Arizona's "program has attracted a stampede of Wall Street investors, hedge fund managers and private equity speculators, spurring fears that the business entities will prioritize the bottom line over clients' best interests in pursuit of multibillion-dollar mass-tort verdicts.").

[32] Laura Gersony, *Arizona Lets Investors Own Law Firms. Consumers Pay the Price*, Ariz. Republic, Feb. 8, 2026, *available at* 2026 WLNR 3923396; *see also* Laura Gersony, *Loopholes Let Arizona Law Firm Experiment Spread Nationwide*, Ariz. Republic, Feb. 9, 2026, *available at* 2026 WLNR 3982596.

[33] Gersony, *Bad Actors*, *supra.*

[34] *Id.*

[35] *Id.*

[36] Laura Gersony, *Arizona Supreme Court May Change Law License Rules After Investigation*, Ariz. Republic, Feb. 12, 2026, *available at* 2026 WLNR 4353386 (quoting Appellate Judge Anni Hill Foster, chair of Committee on ABS).

[37] Emily R. Siegel, *Arizona ABS Law Firms Face New Limits on Out-of-State Business*, Bloomberg L., Mar. 12, 2026 (discussing In the Matter of Amending Arizona Code of Judicial Administration Section 7-209: Alternative Business Structures, Admin. Order 2026-31 (Ariz. Mar. 18, 2026)). The Arizona Supreme Court has also acted to address the impact of TPLF by nonlawyer investors. Amendments to the Arizona Rules of Civil Procedure which took effect January 1, 2026, require a party, as part of its initial pleading, to certify whether it has entered into a TPLF agreement and, if so, disclose certain information about the nature of the agreement and potentially disclose all or part of the agreement. Ariz. R. of Civ. Proc. 8(j).

[38] A.B. 931 (Cal. 2025) (codified at Cal. Bus. & Prof. Code § 6156).

[39] Cal. R. Prof'l Conduct 5.4 prohibits nonlawyer equity in law corporations.

Florida: In December 2025, the Florida Supreme Court amended the rules regulating the state bar to reaffirm that "only a person legally qualified to render legal services in Florida may direct the legal services or professional judgement of a lawyer engaged in the practice of law in Florida."[40] The amendment also intends to "clarify that … nonlawyers may not serve in certain positions, have certain titles, or perform policy-making functions" that may imply control or management of business entities authorized for lawyers practicing in the state.[41] As *Bloomberg Law* reported, the amendment "reasserts traditional professional boundaries at a moment when those boundaries are under pressure across the country"—an approach "arguably more powerful" than explicitly rejecting ABS.[42] Previously, the Florida Bar's Board of Governors voted *unanimously* to reject any amendment authorizing nonlawyer law firm ownership or fee-sharing.[43]

South Carolina: In March 2026, South Carolina's Ethics Advisory Committee issued an ethics advisory opinion prohibiting South Carolina lawyers from serving as local co-counsel with an ABS that has nonlawyer owners or partners.[44] The committee noted, "Rule 5.4 prohibits the sharing or splitting of legal fees with a nonlawyer, thus emphasizing South Carolina's strong policy of preserving professional independence."[45]

Other Jurisdictions: Other jurisdictions, including Illinois,[46] Maryland,[47] New York,[48] and Texas,[49] have similarly rejected recent proposals that would threaten lawyer professional independence for the promise of access to justice gains that have not materialized in the jurisdictions that have experimented with ABS.

---

[40] *In re* Amendments to Rules Regulating the Florida Bar – Rule 4-8.6, No. SC2025-1173 (Fla. Dec. 18, 2025), at 2.

[41] *Id.*

[42] Aron Solomon, *Florida's Rule Is Subtly Pushing Back on Non-Lawyer Ownership*, Bloomberg L., Jan. 22, 2026.

[43] Gary Blankenship, *Board of Governors Unanimously Opposes Non-Lawyer Firm Ownership, Fee Splitting Ideas*, Fla. Bar News, Nov. 10, 2021.

[44] S.C. Ethics Advisory Comm. Opinion 25-02, at 1 (Mar. 13, 2026).

[45] *Id*. at 2. The Ethics Advisory Committee also concluded that "a South Carolina licensed lawyer may not ethically own or invest in an ABS that practices law." *Id*.

[46] Ill. Bar Ass'n, Prof'l Conduct Advisory Opinion 25-02 (Feb. 2025) (concluding an attorney would violate the Illinois Rules of Professional Conduct by participating in a for-profit, third-party client referral service that shares fixed fees, uses nonlawyer actors in advertising, or requires client communications on a monitored platform lacking confidentiality); *see also* Ed Finkel, *The Nonlawyer Ownership Issue*, 110 Ill. B.J. 22, 23 (Nov. 2022) ("Efforts to allow nonlawyer ownership of law firms, fee sharing with nonlawyers … are often touted as innovative ways to address access-to-justice problems. The [Illinois State Bar Association] and its allies maintain that other innovations would better protect the public's interests and those of attorneys.").

[47] Md. State Bar Ass'n Comm. on Ethics, Opinion 2025-01 (concluding Maryland attorney working for accounting firm "would not be allowed to share any fees resulting from those Maryland legal services with non-attorneys").

[48] N.Y.C. Bar Ass'n, Prof'l Ethics Comm., Opinion 2024-4 (July 18, 2024) (stating "it is well settled that the New York Rules prohibit a lawyer from practicing law in New York through an ABS," though a lawyer may "passively invest" in an ABS firm in a jurisdiction that permits investment by out-of-state lawyers).

[49] *Bending the Rules: Texas Access to Justice Commission Votes "No" on Allowing Limited Legal Services by Non-Attorney-Owned Entities*, Austin Law., Apr. 2024; *see also* Tex. Bar Prof'l Ethics Comm. Opinion 706 (Feb. 2025) (concluding a Texas lawyer may not share fees with a nonlawyer-owned company that provides case management support services); Tex. Bar Prof'l Ethics Comm. Opinion 707 (May 2025) (concluding for-profit companies owned by nonlawyers cannot provide legal services through in-house counsel because it would constitute assisting the unauthorized practice of law and potentially involve impermissible fee-sharing).

Tennessee should reaffirm the existing regulations, safeguard the integrity of the state's civil justice system, protect the public from the influence of profit-driven investors, and ensure that lawyers remain free to exercise independent professional judgment exclusively in service of their clients.

Sincerely,

Tennessee Defense Lawyers Association

DRI – Association of Lawyers Defending Business

U.S. Chamber of Commerce Institute for Legal Reform

NFIB Small Business Legal Center, Inc.

Coalition for Litigation Justice, Inc.

National Association of Mutual Insurance Companies

American Trucking Associations

Tennessee Chamber of Commerce & Industry

International Association of Defense Counsel

Federation of Defense & Corporate Counsel

Association of Defense Trial Attorneys

American Tort Reform Association

Washington Legal Foundation

American Property Casualty Insurance Association

Tennessee Trucking Association