

RECEIVED BY

DEC 18 2009

STATE BAR OF NEVADA

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE  
AMENDMENT OF SUPREME COURT  
RULE 217

ADKT. No. 419

**FILED**

DEC 16 2009

TRACIE A. LINDEMAN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
CHIEF DEPUTY CLERK

ORDER AMENDING SUPREME COURT RULE 217

WHEREAS, the State Bar of Nevada's Access to Justice Commission has recommended amendments to Nevada Supreme Court Rule 217 (SCR 217); and

WHEREAS, a public hearing was held on December 1, 2009, to consider the proposed amendments; and

WHEREAS, it appears to this court that amendment of SCR 217 is warranted, accordingly,

IT IS HEREBY ORDERED that SCR 217 shall be amended and shall read as set forth in Exhibit A.

IT IS FURTHER ORDERED that this amendment to the Supreme Court Rules shall be effective 30 days from the date of this order. The clerk of this court shall cause a notice of entry of this order to be published in the official publication of the State Bar of Nevada. Publication of this order shall be accomplished by the clerk disseminating copies of this order to all subscribers of the advance sheets of the Nevada Reports and all persons and agencies listed in NRS 2.345, and to the executive director of the State Bar of Nevada. The certificate of the clerk of this court as to the accomplishment of the above-described publication

of notice of entry and dissemination of this order shall be conclusive evidence of the adoption and publication of the foregoing rules.

J. Hardesty, C.J.  
Hardesty

Parraguirre, J.  
Parraguirre

Douglas, J.  
Douglas

Cherry, J.  
Cherry

Saitta, J.  
Saitta

Gibbons, J.  
Gibbons

Pickering, J.  
Pickering

cc: Kathleen England, President, State Bar of Nevada  
Kimberly Farmer, Executive Director, State Bar of Nevada  
Suzan Baucum, Nevada Law Foundation  
David McElhinney, Chair, Nevada Law Foundation Board of  
Trustees  
Robert Eglet, Vice-Chair, Nevada Law Foundation Board of  
Trustees  
Kristina Marzec, Executive Director, Access to Justice Commission  
Administrative Office of the Courts

## EXHIBIT A

### AMENDMENTS TO SCR 217

**Rule 217. Creation and maintenance of interest-bearing trust accounts.** A member of the state bar or the member's law firm shall create or maintain an interest-bearing trust account for clients' funds which are nominal in amount or to be held for a short period of time in any banking, credit union, or savings and loan association which is in compliance with the following provisions:

1. An interest-bearing trust account established pursuant to this rule may be established with any bank, credit union, or savings and loan association authorized by federal or state law to do business in Nevada, located in Nevada and insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation or other financial institution approved by the state bar pursuant to Rule 78.5 of these rules. Funds in each interest-bearing account shall be subject to withdrawal upon request and without delay.

2. Interest minimum standards. The rate of interest payable upon any interest-bearing trust account shall [~~not be less than the rate paid by the depository institution to regular non attorney depositors~~] meet any one of the following minimum standards:

(a) The 30-day LIBOR minus .50 percent, or, the Federal Discount Rate plus .50 percent, whichever is greater; or

(b) Equal to the Federal Fund Target Rate, or, the Federal Discount Rate plus .50 percent, whichever is greater; or

(c) Equal to or greater than a flat interest rate, which rate shall be reviewed and approved by the Access to Justice Commission twice annually and made public at least thirty days prior to the effective date.

(d) Higher rates offered by the institution to customers whose deposits exceed certain time or quantity minima, such as those offered in the form of certificates of deposit, [may be obtained by a member of the state bar or the member's law firm on some or all deposited funds] are permissible so long as there is no impairment of the right to withdraw or transfer principal immediately without penalty.

3. Exceptions. The minimum standards stated above in subsection 2 (a) –(c) are waived only if the member or member's law firm does not maintain an office within 20 miles of a financial institution meeting those minimum standards. Notice of waiver shall be reported by the member or member's law firm annually on a form to be provided by the state bar with annual membership fee statements.

4. Fees prohibited. Accounts under this rule shall be exempt from service charges and fees.

**[3]** 5. Reporting. A member of the state bar or the member's law firm establishing such account shall ~~[direct the depository institution to]~~:

(a) direct the depository institution to:

(i) remit interest or dividends, as the case may be, on the average monthly balance in the account or as otherwise computed in accordance with an institution's standard accounting practice at least quarterly, to [the Nevada Law Foundation,] the designated tax-exempt [bar] foundation pursuant to Rule 216;

~~[(b)]~~ (ii) ~~[(to)]~~ transmit with each remittance to ~~[the Nevada Law Foundation]~~ the designated tax-exempt foundation a statement showing the name of the member of the state bar or the member's law firm for whom the remittance is sent (and the rate of interest applied); and

~~[(e)]~~ (iii) ~~[(To)]~~ transmit to the depositing member of the state bar or the member's law firm at the same time a report showing the amount paid to ~~[the Nevada Law Foundation]~~ the designated tax-exempt foundation;  
and

(b) establish and follow reasonably prudent procedures to verify, at least annually, that each account maintained under this rule is on deposit with an institution currently listed by the designated tax-exempt foundation as operating in compliance with the Interest Minimum Standards set forth in subsection 2 above. Member verification shall be reported to the State Bar, by completing and submitting a form provided with the annual membership fee statements.

6. List of Complying Financial Institutions. The designated tax-exempt foundation shall maintain an accurate and up-to-date list of all financial institutions as defined in subsection 1 above, which are in compliance with the Interest Minimum Standards set forth in subsection 2 above. This list shall be provided to the State Bar by the designated tax-exempt foundation, posted on the State Bar's website and published in other media from time to time to facilitate members' compliance with this rule.

7. Effective dates; compliance monitoring. The amendments to this rule mandated by order dated December 16, 2009, shall be effective thirty days from entry of order. The designated tax-exempt foundation pursuant to rule 216 shall begin monitoring banking compliance within thirty days of effective date and provide reports at least quarterly to the Access to

Justice Commission and the State Bar of Nevada. The first member reporting required pursuant to subsection 5(b) shall begin in 2010, and reported in the 2011 annual membership fee statements.