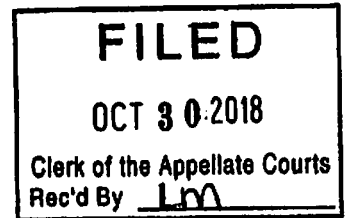


IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE



IN RE: AMENDMENTS TO
TENNESSEE RULES OF
PROCEDURE & EVIDENCE

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No. ADM2018-01575

COMMENT OF THE TENNESSEE BAR ASSOCIATION

The Tennessee Bar Association (“TBA”) makes the following comment regarding the proposed amendments to the Rules of Procedure & Evidence filed August 30, 2018:

BACKGROUND

On August 30, 2018, this Court issued an Order soliciting comments on various amendments proposed by the Advisory Commission on Rules of Evidence and Rules of Practice and Procedure. The Tennessee Bar Association asked its Criminal Justice Section, Business Law Section, Creditors Practice Section, Family Law Section, General, Solo & Small Firm Practitioners Section, Juvenile & Children’s Law Section, Litigation Section, Real Estate Law Section, Construction Law Section, Tort and Insurance Practice Section, Appellate Practice Section, Bankruptcy Law Section, and Labor & Employment Law Section to review the proposed rules and provide any comments or recommendations. Based upon that review, the TBA recommends the adoption of the rules without change except as to the following identified rules.

**THE PROPOSED CHANGES TO RULES 4.04 AND 4.05
OF THE TENNESSEE RULES OF CIVIL PROCEDURE
SHOULD BE ADOPTED WITH REVISIONS**

The TBA is in favor of adoption of the proposed amendments to Rules 4.04 and 4.05 of the Tennessee Rules of Civil Procedure but suggest one change. Both Rules 4.04 and 4.05 refer in separate subsections to service of process on corporations and partnerships/unincorporated associations, including Limited Liability Companies (“LLC’s”). However, the proposed edits that clarify the rules, regarding what constitutes a default judgment when there is service by mail, only apply to foreign and domestic corporations. Given the new requirement that evidence from the Secretary of State’s office regarding the entity’s address accompany the Motion for Default Judgment, the TBA feels that it is more appropriate for the proposed requirement to apply to all business entities filed with the Secretary of State’s office, including, but not limited to, corporations, limited liability companies, limited liability partnerships, and limited partnerships.


RESPECTFULLY SUBMITTED,


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CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing has been served upon the individuals and organizations identified in Exhibit "A" by regular U.S. Mail, postage prepaid within seven (7) days of filing with the Court.


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