

Supreme Court Appeals  
Pending Cases  
5-24-24

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| 1. | Style                      | Terry Case v. Wilmington Trust, N.A., et al.  |
| 2. | Docket Number              | E2021-00378-SC-R11-CV   |
| 3. | Lower Court Decision Links | <a href="https://www.tncourts.gov/sites/default/files/e2021-378_case_v._wilmington.pdf">https://www.tncourts.gov/sites/default/files/e2021-378_case_v._wilmington.pdf</a>   |
| 4. | Lower Court Summary        | The plaintiff appeals the trial court's order granting the defendants' motions for summary judgment and dismissing the plaintiff's claims for breach of contract, wrongful foreclosure, injunctive relief, and declaratory relief. Having determined that the plaintiff has waived arguments related to his breach of contract claim, we review solely the trial court's dismissal of the plaintiff's claim for wrongful foreclosure. We conclude that the defendants did not strictly comply with the notice requirements of the deed of trust, vacate the portion of the trial court's order granting summary judgment to the defendants with respect to the plaintiff's wrongful foreclosure claim, and set aside the foreclosure sale. We affirm the trial court's order with respect to the plaintiff's breach of contract claim. We decline to award the defendants damages pursuant to Tennessee Code Annotated § 27-1- 122. |
| 5. | Status                     | Heard 9/6/23 in Knoxville.  |
| 6. | Issue(s)                   | As stated by Applicant:<br><br>1. Does Tennessee recognize an independent cause of action for wrongful foreclosure to set aside a foreclosure sale based entirely on a procedural defect in the sale that causes no harm or prejudice?<br><br>2. Tennessee Code Annotated § 35-5-101(f) allows foreclosure sale postponements of less than 30 days to be announced orally. Does the Fannie Mae/Freddie Mac Uniform Tennessee Deed of Trust, which secures over 500,000 residential mortgage loans in Tennessee, nevertheless require written notice of such postponements?  |

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| 1. | Style                      | Payton Castillo v. David Lloyd Rex, M.D. et al.   |
| 2. | Docket Number              | E2022-00322-SC-R11-CV   |
| 3. | Lower Court Decision Links | <a href="https://www.tncourts.gov/sites/default/files/OpinionsPDFVersion/Castillo%20v.%20Rex%2C%20M.D.%20Opinion%20UNSIGNED.pdf">https://www.tncourts.gov/sites/default/files/OpinionsPDFVersion/Castillo%20v.%20Rex%2C%20M.D.%20Opinion%20UNSIGNED.pdf</a>   |
| 4. | Lower Court Summary        | The plaintiff filed this healthcare liability action against several healthcare providers following the death of her husband. We granted this interlocutory appeal in which the defendants request review of the trial court's denial of their motion for a protective order to prohibit further inquiry into a meeting held between the defendant hospital and the decedent's family. We affirm the trial court. |

5. Status Application granted 3/8/24. Fully briefed.
6. Issues(s) As certified by the trial court and answered by the Court of Appeals:
1. Whether statements made by representatives of Memorial in a CANDOR meeting, which are based on information obtained in a QIC meeting are privileged pursuant to Tennessee Code Annotated section 68-11-272.
  2. Whether testimony from representatives of Memorial regarding statements made in a CANDOR meeting, which are based on information obtained in a QIC proceeding constitutes “direct or indirect discovery” of QIC activities as prohibited by Tennessee Code Annotated section 68-11- 272.

1. Style Bill Charles v. Donna McQueen
2. Docket Number M2021-00878-SC-R11-CV
3. Lower Court Decision Links <https://www.tncourts.gov/sites/default/files/OpinionsPDFVersion/McQUEEN%20-Majority%20Opinion.pdf>
4. Lower Court Summary This case involves a lawsuit alleging claims of defamation and false light arising from an online review. In response to the lawsuit, the defendant filed a petition under the Tennessee Public Participation Act to dismiss the lawsuit. The trial court ultimately granted the petition and dismissed the case. For the reasons stated herein, we affirm in part and reverse in part.
5. Status Heard 10/4/23 in Nashville.
6. Issues(s) As stated in the Appellant’s Rule 11 Application:
1. Pursuant to Tennessee Rule of Appellate Procedure 27(b), whether a Defendant/Appellee can “waive” (or forfeit) any claim to mandatory attorneys’ fees on appeal under Tennessee’s Anti-SLAPP Act by not specifically listing that request in her statement of issues—particularly when the trial court has not yet ruled on the fee request.
  2. Pursuant to Tennessee Rule of Appellate Procedure 27(b), after a trial court dismisses a plaintiff’s entire complaint with prejudice, whether a Defendant/Appellee can “waive” (or forfeit) appellate review of alternate grounds for affirmance by not specifically listing that request in her statement of issues.
  3. Whether there is admissible evidence in the record to find that Plaintiff—as the HOA President and registered agent who spoke with both the media and the city council regarding the 1,000+ home Durham Farms community—is a limited-purpose public figure for defamation purposes.

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| 1. | Style                         | Thomas Edward Clardy v. State  |
| 2. | Docket Number                 | M2021-00566-SC-R11-ECN   |
| 3. | Lower Court<br>Decision Links | <a href="https://www.tncourts.gov/sites/default/files/clardy_t_-_filed_opn.pdf">https://www.tncourts.gov/sites/default/files/clardy t - filed opn.pdf</a>  |
| 4. | Lower Court<br>Summary        | For a 2005 shooting, a Davidson County jury convicted the Petitioner, Thomas Edward Clardy, of one count of first degree premeditated murder, two counts of attempted first degree premeditated murder, and three counts of reckless endangerment. The trial court imposed a life sentence. On December 8, 2020, the Petitioner filed a petition for a writ of error coram nobis, alleging newly discovered evidence in the form of an affidavit showing that he did not participate in the crime. The Petitioner acknowledged that he did not file the petition within the applicable statute of limitations but said he was entitled to an equitable tolling. The State agreed, and it asked the trial court for an equitable tolling and to hear the case on its merits. The coram nobis court, noting that it was not bound by the State's concession, dismissed the petition as untimely. After review, we conclude that the coram nobis court erred and that the Petitioner is entitled to an equitable tolling of the statute of limitations. As such, we reverse and remand to the coram nobis court for a hearing on the Petitioner's error coram nobis claims. |
| 5. | Status                        | Heard on 6/1/23 in Nashville. On 8/4/23, the State filed a notice of developments in the Federal habeas case.  |
| 6. | Issue(s)                      | As stated in the Appellant's Rule 11 Application:<br><br>A. Whether an error coram nobis petitioner must present evidence of actual innocence to obtain due-process tolling of the statute of limitations.<br><br>B. If so, whether the evidence presented in this case—which does not rule out or seriously undermine the petitioner's guilt—meets the standard of actual innocence.  |

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| 1. | Style                         | Vanessa Colley v. John S. Colley  |
| 2. | Docket Number                 | M2021-00731- SC-R11-CV  |
| 3. | Lower Court<br>Decision Links | <a href="https://www.tncourts.gov/sites/default/files/m2021-731_-_opinion_-_colley.pdf">https://www.tncourts.gov/sites/default/files/m2021-731 - opinion - colley.pdf</a>   |
| 4. | Lower Court<br>Summary        | Appellant/Husband voluntarily nonsuited his post-divorce lawsuit involving issues of alimony and the parties' alleged settlement of an IRS debt. Appellee/Wife moved for an award of her attorney's fees on alternative grounds, i.e., the abusive lawsuit statute, Tenn. Code Ann. § 29-41-106; the parties' MDA; and Tennessee Code Annotated section 36-5- 103(c). The trial court granted Wife's motion and entered judgment for her attorney's fees and costs. The trial court specifically held that Husband's lawsuit was not abusive, and Wife does not raise this as an issue on appeal. As such, we conclude that she is not entitled to her attorney's fees under the abusive lawsuit statute. As to her claim for attorney's fees and costs under the MDA and Tennessee Code Annotated section 36-5-103(c), both grounds require that Wife be a "prevailing party" in the underlying lawsuit. Because Husband took a voluntary nonsuit, neither party |

prevailed in the action, and Wife is not entitled to her attorney's fees and costs. Reversed and remanded.

5. Status Heard 10/4/23 in Nashville.
6. Issue(s) As stated in the Appellant's Rule 11 Application:
1. Is a defendant who defends against a lawsuit that seeks to modify a court-ordered Marital Dissolution Agreement and secures a judgment of dismissal, without prejudice, following the plaintiff's voluntary nonsuit a "prevailing party" within the meaning of Tenn. Code Ann. § 36-5-103(c)?
  2. When "contract language is interpreted according to its plain terms and ordinary meaning," *see BSG, LLC v. Check Velocity, Inc.*, 395 S.W.3d 90, 93 (Tenn. 2012), is a defendant who secures a judgment of dismissal, without prejudice, following a plaintiff's voluntary nonsuit a "prevailing party" within the meaning of a contractual fee-shifting provision when the term "prevailing party" is not otherwise defined?

1. Style State of Tennessee v. Christopher Oberton Curry, Jr.
2. Docket Number W2022-00814-SC-R11-CD
3. Lower Court Decision Links [CurryChristopherObertonJrOPN.pdf \(tncourts.gov\)](#)
4. Lower Court Summary A Madison County jury convicted the Defendant, Christopher Oberton Curry, Jr., of being a convicted felon in possession of a firearm, evading arrest while operating a motor vehicle, reckless driving, driving while unlicensed, violation of the registration law, and disobeying a stop sign. The trial court sentenced the Defendant to an effective sentence of ten years. On appeal, the Defendant contends that the evidence is insufficient to support his conviction for felony possession of a weapon and that an item of evidence was erroneously admitted. He further contends that the jury instructions were inaccurate and incomplete. After review, we affirm the trial court's judgments.
5. Status Heard 4/3/24 in Memphis.
6. Issue(s) As stated by Applicant:
- A. Whether the State's evidence is legally insufficient to find a person guilty of unlawfully possessing a firearm after having been convicted of a felony crime of violence when the previous conviction (here, robbery) is not included in the statutory list of "crimes of violence," the previous conviction is not a greater or inchoate version of one of the statutorily listed offenses, and there is no proof as to how the prior offense was committed and thus no proof to establish, beyond a reasonable doubt, that the previous conviction involved violence.
  - B. Whether the trial court's jury instructions were inaccurate and incomplete because they failed to provide either a statutory or jurisprudential definition for "felony crime of violence," and when the trial court instead told the jury that robbery is a crime of violence, thus depriving the jury of the ability to assess an essential element of the

offense of unlawful possession of a weapon after having been convicted of a felony crime of violence.

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| 1. | Style                      | Ashley Denson ex rel. Bobbie J. Denson v. Methodist Medical Center of Oak Ridge et al.   |
| 2. | Docket Number              | E2023-00027-SC-R11-CV  |
| 3. | Lower Court Decision Links | <a href="https://www.tncourts.gov/sites/default/files/OpinionsPDFVersion/E2023-27%20Maj..pdf">https://www.tncourts.gov/sites/default/files/OpinionsPDFVersion/E2023-27%20Maj..pdf</a><br><a href="https://www.tncourts.gov/sites/default/files/OpinionsPDFVersion/E2023-27%20Dis..pdf">https://www.tncourts.gov/sites/default/files/OpinionsPDFVersion/E2023-27%20Dis..pdf</a>   |
| 4. | Lower Court Summary        | This appeal arises from a health care liability action following the death of Ashley Denson from a cardiac event she suffered after being treated and released from Methodist Medical Center. Ms. Denson was unmarried and had two minor children at the time of her death. The statutorily-required pre-suit notice listed Ms. Denson’s mother, Bobbie J. Denson, as the claimant authorizing notice. The minor children were not identified anywhere in the notice. The subsequent complaint was filed by “ASHLEY DENSON, Deceased, by and through her Next Friend and Mother BOBBIE JO DENSON, and BOBBIE JO DENSON, Individually.” The body of the complaint lists, for the first time, Ashley Denson’s children, and states that Bobbie Denson “brings this action individually, and on behalf of Plaintiff, decedent’s surviving minor children ... as Grandmother and Legal Guardian.” The defendants filed motions to dismiss, challenging Bobbie Denson’s standing to bring the action and contending that the pre-suit notice failed to comply with the requirements of the Tennessee Health Care Liability Act. <sup>1</sup> The trial court initially granted the motions to dismiss but reversed course after the plaintiff filed a motion to reconsider. We hold that, although Grandmother has standing, the pre-suit notice does not comply with the requirements of the Tennessee Health Care Liability Act. The judgment of the trial court is ultimately affirmed in part and reversed in part. |
| 5. | Status                     | Application granted 3/7/24. Appellant’s brief filed 5/6/24; <i>Appellees’ Motion for extension to file appellees’ brief granted and due 7/14/24. <b>Pending</b></i>  |
| 6. | Issue(s)                   | As certified by the trial court and accepted by the Court of Appeals:<br><br>Did Plaintiff Bobbie Joe Denson substantially comply with the presuit notice requirement regarding identification of the “claimant” pursuant to T.C.A. § 29-26-21(a)(2)(B) when she did not indicate in the presuit notice that she was acting on behalf of the decedent’s surviving minor children?  |

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| 1. | Style                      | Robert Allen Doll, III v. BPR |
| 2. | Docket Number              | M2022-01723-SC-R3-BP          |
| 3. | Lower Court Decision Links | N/A                           |
| 4. | Lower Court Summary        | N/A                           |

5. Status Heard 10/4/23 on-briefs.
6. Issue(s) N/A

1. Style Emergency Medical Care Facilities, P.C. v. BlueCross BlueShield of Tennessee, Inc., et al.
2. Docket Number M2021-00174-SC-R11-CV
3. Lower Court Decision Links <https://www.tncourts.gov/sites/default/files/OpinionsPDFVersion/Majority%20Opinion%20M2021-00174-COA-R3-CV.pdf>
4. Lower Court Summary Plaintiff appeals the trial court’s decision to dismiss its class action allegations against two defendants on the basis of collateral estoppel. Specifically, the trial court ruled that while a prior determination that Appellant was not entitled to class action certification was not a final judgment on the merits, due to a dismissal of that case without prejudice, the ruling was “sufficiently firm” to have preclusive effect, citing the *Restatement (Second) Of Judgments*. Because Tennessee law requires a final adjudication on the merits for a judgment to be entitled to preclusive effect, we reverse.
5. Status Fully briefed. TBH 5/29/24 in Nashville.
6. Issue(s) If a plaintiff’s motion for class certification is denied in the trial court and that denial is affirmed on interlocutory appeal, can the plaintiff on remand voluntarily nonsuit its claims, file a new putative class action in another trial court asserting the same claims against the same defendants, and relitigate the previously determined class-certification issue in the new action?

1. Style Family Trust Services LLC et al. v. Greenwise Homes LLC et al.
2. Docket Number M2021-01350-SC-R11-CV
3. Lower Court Decision Links [https://tncourts.gov/sites/default/files/family\\_trust\\_-\\_majority\\_opinion.pdf](https://tncourts.gov/sites/default/files/family_trust_-_majority_opinion.pdf)
4. Lower Court Summary This appeal involves claims by four plaintiffs against an attorney, his business partner, and the attorney’s and partner’s limited liability company. The plaintiffs claim that the defendants fraudulently redeemed properties sold via tax sales, utilizing forged or fraudulent documents. Following a bifurcated jury trial, the plaintiffs’ claims were dismissed except for the claim of one plaintiff against the attorney defendant, which resulted in a verdict for damages in the amount of \$53,450. The trial court subsequently denied a motion for new trial filed by the plaintiffs. The plaintiffs have appealed. Upon thorough review, we conclude that the trial court’s denial of the plaintiffs’ motion for new trial should be reversed. However, we affirm the trial court’s pre-trial determination that judgment on the pleadings was appropriate concerning the plaintiffs’ claims of unjust enrichment and “theft” of the right of redemption. We further affirm (1) the trial court’s grant of summary judgment in favor of the defendants concerning the plaintiffs’ claim based on Tennessee Code Annotated § 66-22-113 and (2) the court’s denial of the defendant company’s motion to dissolve the lien *lis pendens* on its property. The

remaining issue raised by the defendants is pretermitted as moot. We remand this matter to the trial court for a new trial.

5. Status Heard 10/4/23 in Nashville. Supplemental Authority filed 11/22/23.

6. Issue(s) The single issue in this case, as rephrased is:

Whether the exclusive remedy available to the appellate courts under Tennessee law upon determining that the trial court failed to apply the correct standard in exercising its role as the thirteenth juror and so erred in denying a motion for new trial is to remand for a new trial; or, alternatively, whether the appellate court may remand to the trial court to apply the correct standard and fulfill its role as thirteenth juror.

1. Style Robert E. Lee Flade v. City of Shelbyville, TN, et al.

2. Docket Number M2022-00553-SC-R11-CV

3. Lower Court Decision Links <https://www.tncourts.gov/sites/default/files/OpinionsPDFVersion/Majority%20Opinion%202022-553-COA.pdf>

4. Lower Court Summary This appeal involves application of the Tennessee Public Participation Act (TPPA). Plaintiff filed multiple causes of action against the City of Shelbyville, the Bedford County Listening Project, and several individuals – one of whom is a member of the Shelbyville City Council. Defendants filed motions to dismiss for failure to state a claim under Tennessee Rules of Civil Procedure 12.06, and two of the non-governmental Defendants also filed petitions for dismissal and relief under the TPPA. The non-governmental Defendants also moved the trial court to stay its discovery order with respect to Plaintiff's action against the City. The trial court denied the motion. The non-governmental Defendants filed applications for permission for extraordinary appeal to this Court and to the Tennessee Supreme Court; those applications were denied. Upon remand to the trial court, Plaintiff voluntarily non-suited his action pursuant to Tennessee Rule of Civil Procedure 41.01. The non-governmental Defendants filed motions to hear their TPPA petitions notwithstanding Plaintiff's nonsuit. The trial court determined that Defendants' TPPA petitions to dismiss were not justiciable following Plaintiff's nonsuit under Rule 41.01. The Bedford County Listening Project and one individual Defendant, who is also a member of the Shelbyville City Council, appeal. We affirm the judgment of the trial court.

5. Status Heard 2/21/24 in Nashville. Supplemental authority filed 5/1/24; response to supplemental authority filed 5/6/24.

6. Issue(s) As stated in the Appellant's Rule 11 Application:

When a defendant has petitioned for relief under Tennessee Code Annotated § 20-17-104(a), do the defendant's claims survive a plaintiff's subsequent nonsuit?

1. Style Leah Gilliam v. David Gerregano, Commissioner of the Tennessee Department of Revenue et al..

2. Docket Number M2022-00083-SC-R11-CV

3. Lower Court Decision Links [https://www.tncourts.gov/sites/default/files/OpinionsPDFVersion/Majority%20Opinion%202022-083-COA\\_0.pdf](https://www.tncourts.gov/sites/default/files/OpinionsPDFVersion/Majority%20Opinion%202022-083-COA_0.pdf)
4. Lower Court Summary Citizens of Tennessee may apply to the Tennessee Department of Revenue (the “Department”) for license plates featuring unique, personalized messages. Tennessee Code Annotated section 55-4-210(d)(2) provides that “[t]he commissioner shall refuse to issue any combination of letters, numbers or positions that may carry connotations offensive to good taste and decency or that are misleading.” After her personalized plate featuring the message “69PWNDU” was revoked by the Department, Leah Gilliam (“Plaintiff”) filed suit against David Gerregano (the “Commissioner”), commissioner of the Department, as well as the then-Attorney General and Reporter. Plaintiff alleged various constitutional violations including violations of her First Amendment right to Free Speech. The Department and the State of Tennessee (together, the “State”) responded, asserting, *inter alia*, that the First Amendment does not apply to personalized plate configurations because they are government speech. The lower court, a special three judge panel sitting in Davidson County, agreed with the State. Plaintiff appeals, and we reverse, holding that the personalized alphanumeric configurations on vanity license plates are private, not government, speech. We affirm, however, the panel’s decision not to assess discovery sanctions against the State. Plaintiff’s other constitutional claims are pretermitted and must be evaluated on remand because the panel did not consider any issues other than government speech. This case is remanded for proceedings consistent with this opinion.
5. Status Heard 4/3/24 in Memphis. Supplemental authority filed 5/14/24.
6. Issue(s) Are the personalized alphanumeric registration characters on state-issued vanity license plates government or private speech under the First Amendment’s Free Speech Clause?

1. Style Daryl A. Gray v. Board of Professional Responsibility of the Supreme Court of Tennessee
2. Docket Number W2023-01265-SC-R3-BP
3. Lower Court Decision Links N/A
4. Lower Court Summary N/A
5. Status Heard 5/22/24 on-briefs.
6. Issue(s) N/A

1. Style State of Tennessee v. Andre JuJuan Lee Green
2. Docket Number M2022-00899-SC-R11-CD
3. Lower Court Decision Links <https://tncourts.gov/sites/default/files/OpinionsPDFVersion/Majority%20Opinion%202022-899-CCA.pdf>



4. Lower Court Summary The State appeals the trial court's order granting the defendant's motion to suppress evidence recovered during the search of the car in which the defendant was a passenger. The State asserts that the trial court erred because the scent of marijuana provided probable cause for the search regardless of the possibility that legal hemp was the source of the odor. After review, we conclude the trial court erred in granting the defendant's motion to suppress. Therefore, we reverse the trial court's order granting the defendant's motion for suppression, reinstate the indictments against the defendant, and remand to the trial court for further proceedings.
5. Status Heard 4/3/24 in Memphis.
6. Issue(s) As stated in the Appellant's Rule 11 Application:  
  
Whether the scent of marijuana detected by a canine during a protective sweep can provide probable cause for a warrantless search where the canine cannot distinguish between the illegal marijuana or the legal hemp, which are indistinguishable by smell.

1. Style Colleen Ann Hyder v. BPR
2. Docket Number M2022-01703-SC-R3-BP
3. Lower Court Decision Links N/A
4. Lower Court Summary N/A
5. Status Heard 10/4/23 on-briefs.
6. Issue(s) N/A

1. Style James B. Johnson v. BPR
2. Docket Number M2024-00452-SC-R3-BP
3. Lower Court Decision Links N/A
4. Lower Court Summary N/A
5. Status Notice of appeal filed 3/26/24
6. Issue(s) N/A

1. Style Annie J. Jones, by and through her Conservatorship, Joyce Sons a/k/a Calisa Joyce Sons v. Life Care Centers of America d/b/a Life Care Center of Tullahoma

2. Docket Number M2022-00471-SC-R11-CV
3. Lower Court Decision Links <https://www.tncourts.gov/sites/default/files/OpinionsPDFVersion/Majority%20Opinion%20M2022-00471-COA-R3-CV.pdf>
4. Lower Court Summary  
 This appeal arises from an incident in which the nude body of a resident at an assisted living facility was exposed on a video call via telephone when an employee of the healthcare facility engaged in a personal call while assisting the resident in the shower. The resident, by and through her conservator/daughter (“Plaintiff”), sued the owner and operator of the healthcare facility, Life Care Centers of America d/b/a Life Care Center of Tullahoma (“Defendant”), asserting a claim of “Negligence Pursuant to the Tennessee Medical Malpractice Act” and a generalized claim for invasion of privacy with allegations of “Gross Negligence, Willful, Wanton, Reckless, Malicious and/or Intentional Misconduct.” Relying on the undisputed fact that the resident was unaware and never informed that the incident occurred, Defendant moved for summary judgment due to the lack of a cognizable injury or recoverable damages. Plaintiff opposed the motion, contending that actual damages were not an essential element of her claims and, in the alternative, moved to amend the complaint to specifically assert a claim for invasion of privacy based on intrusion upon the resident’s seclusion and a claim for negligent supervision. The trial court summarily dismissed the complaint on the ground “that damages for invasion of privacy . . . cannot be proven as it would be impossible to suffer from personal humiliation, mental anguish or similar damages since [the resident] is unaware that the incident happened” and denied the motion to amend the complaint on the basis of futility. Plaintiff appealed. We have determined that the gravamen of the complaint states a claim for invasion of privacy based upon the distinct tort of intrusion upon seclusion. We have also determined that actual damages are not an essential element of a claim for invasion of privacy based on the distinct tort of intrusion upon seclusion. Thus, Defendant was not entitled to summary judgment. Moreover, granting leave to amend the complaint would not have been futile. Accordingly, we reverse the trial court’s decision to summarily dismiss the complaint, reverse the decision to deny the motion to amend the complaint, and remand with instruction to reinstate the complaint, grant the motion to amend the complaint, and for further proceedings consistent with this opinion.
5. Status Heard 2/21/24 in Nashville.
6. Issue(s) As stated by Applicant:
1. In Tennessee, does a cause of action for invasion of privacy for intrusion upon seclusion survive the death of the individual whose privacy was invaded?
  2. Is Tenn. Code Ann. § 20-5-102 a “particular” type of statute that provides an exception to § 652I of the Restatement (Second) of Torts (1977, adopted by The Supreme Court in 2001 in *West v. Media Gen. Convergence, Inc.*)?

1. Style Loring E. Justice v. BPR
2. Docket Number E2022-01105-SC-R3-BP
3. Lower Court Decision Links N/A

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| 4. | Lower Court Summary | N/A   |
| 5. | Status              | Heard 6/1/23 on-briefs. Motion to withdraw as counsel filed 12/14/23; Response filed by BPR 1/2/24. |
| 6. | Issue(s)            | N/A   |

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| 1. | Style                      | Teresa Thompson Locke et al. v. Jason D. Aston, M.D. et al.  |
| 2. | Docket Number              | M2022-01820-SC-R11-CV  |
| 3. | Lower Court Decision Links | <a href="https://www.tncourts.gov/sites/default/files/OpinionsPDFVersion/Majority%20Opinion%20-%20M2022-01820-COA-R9-CV.pdf">https://www.tncourts.gov/sites/default/files/OpinionsPDFVersion/Majority%20Opinion%20-%20M2022-01820-COA-R9-CV.pdf</a>  |
| 4. | Lower Court Summary        | This is a health care liability action filed by a patient and her husband alleging serious injury as a result of surgery. The plaintiffs learned that the defendants had taken surveillance videos and sought discovery of those videos. The trial court allowed discovery of only the videos that the defendants intended to use at trial for impeachment purposes. The trial court gave the plaintiffs permission to seek an appeal under Tenn. R. Civ. P. 9. This Court granted the appeal. We affirm the trial court's decision. |
| 5. | Status                     | Application granted 3/6/24. Appellants' brief filed 4/5/24; appellees' brief filed 5/6/24; motion for extension to file reply brief granted and due 6/3/24.  |
| 6. | Issue(s)                   | As stated in the Appellant's Rule 11 Application:<br><br>If, in anticipation of litigation or in preparation for trial, a litigant conducts surveillance of his opponent and designates some of the surveillance footage for use at trial, does his opponent have a "substantial need" to obtain the remaining surveillance footage under Tennessee Rule of Civil Procedure 26.02(3)?  |

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| 1. | Style                      | Matthew Long v. Chattanooga Fire and Police Pension Fund  |
| 2. | Docket Number              | E2022-01151-SC-R11-CV   |
| 3. | Lower Court Decision Links | <a href="https://www.tncourts.gov/sites/default/files/OpinionsPDFVersion/Long%20vs.%20Chattanooga%20Fire%20and%20Police%20Pension%20Fund%20COA%20%28unsigned%29.pdf">https://www.tncourts.gov/sites/default/files/OpinionsPDFVersion/Long%20vs.%20Chattanooga%20Fire%20and%20Police%20Pension%20Fund%20COA%20%28unsigned%29.pdf</a>   |
| 4. | Lower Court Summary        | Petitioner/Appellee Matthew Long ("Long") applied for disability pension benefits due to Post-Traumatic Stress Disorder ("PTSD") caused by various traumatic events he experienced during his time as a firefighter with the Chattanooga Fire Department ("CFD"). The Board of Trustees (the "Board") for Respondent/Appellant Chattanooga Fire and Police Pension Fund (the "Fund") denied Long's application. Long filed a Petition for Writ of Certiorari with the Chancery Court for Hamilton County (the "trial court") seeking a reversal of the Board's decision. Finding that the Board's decision was arbitrary and capricious, the trial court reversed the denial of Long's application. The trial court also denied a motion to alter or amend filed by the Fund. Following thorough review, we affirm the judgment of the trial court. |

5. Status Application granted 5/16/24.
6. Issue(s) As stated in the Appellant's Rule 11 Application:
1. Has Tennessee's Uniform Administrative Procedures Act abrogated or limited the traditional common-law doctrine that pension statutes and plans must be construed liberally for applicants for benefits?
  2. When does Tennessee Code Annotated § 27-9-114(a) require municipal civil service boards to follow the Uniform Administrative Procedures Act's contested-case procedures in their own administrative proceedings?
- In addition to other issues properly raised, the Court would like the parties to address the following issues:
- Does the Pension Fund's Disability Policy and/or the City Charter and Code of Ordinances require a court to review the Board's interpretation of the Policy under a deferential standard of review?
- Does the Board's interpretation of the Policy survive judicial review under the correct standard of review?

1. Style Peggy Mathes et al. v. 99 Hermitage, LLC
2. Docket Number M2021-00883-SC-R11-CV
3. Lower Court Decision Links [https://www.tncourts.gov/sites/default/files/peggymathes.opn\\_.pdf](https://www.tncourts.gov/sites/default/files/peggymathes.opn_.pdf)
4. Lower Court Summary This appeal involves a real property dispute. Resolution of the competing interests ultimately turns on the propriety of certain adverse possession claims that have been asserted. Following a bench trial, the trial court determined that there was no adverse possession established due to its finding that Mr. Whiteaker, a former record owner of the property, had "acquiesced in, and permitted" the possession of Mr. Eads, an original plaintiff in this action who is now deceased. Judgment was accordingly entered in favor of the Appellee herein, an entity that purchased the property at a sheriff's sale. The Appellants, who assert rights to the property by dint of Mr. Eads' alleged adverse possession, submit that there is no evidence to support the trial court's view that Mr. Eads' possession was subservient to Mr. Whiteaker. For its part, the Appellee maintains that several considerations countenance against the assertion of adverse possession rights. Having considered the various issues and arguments raised by the parties, we hold that the judgment of the trial court should be reversed, as we conclude that Mr. Eads previously acquired title to the property by common law adverse possession.
5. Status Heard 6/1/23 in Nashville
6. Issue(s) As stated in the Appellant's Rule 11 Application:
1. Whether the true owner of real property by way of an unrecorded deed received from his grantor may establish title by adverse possession.
  2. Whether an inchoate common law adverse possession claim supersedes a valid, recorded judgment, attachment, order, injunction or other writ affecting title, use or

possession of real estate, which is filed pursuant to Tenn. Code Ann. § 66-24-119 and/or Tenn. Code Ann. § 25-5-101.

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| 1. | Style                      | Robin M. McNabb v. Gregory Harrison   |
| 2. | Docket Number              | E2022-01577-SC-R11-CV   |
| 3. | Lower Court Decision Links | <a href="https://www.tncourts.gov/sites/default/files/OpinionsPDFVersion/McNabb%20v.%20Harrison%20COA%20Opinion%20electronic%20signature%200.pdf">https://www.tncourts.gov/sites/default/files/OpinionsPDFVersion/McNabb v. Harrison COA Opinion %28electronic signature%29 0.pdf</a>   |
| 4. | Lower Court Summary        | This case involves an election contest filed by the plaintiff based on the defendant's residency eligibility for the office of Lenoir City Municipal Court Judge. Following a hearing, the trial court determined that the defendant had complied with article VI, section 4 of the Tennessee Constitution because the clause required, <i>inter alia</i> , that he be a resident within the judicial district, not necessarily within the city limits, to preside over the municipal court, which has concurrent jurisdiction with a general sessions court. The plaintiff has appealed. Upon review, we determine that the language of article VI, section 4 of the Tennessee Constitution requiring a judge elected to an inferior court to have been a resident of the "district or circuit" to which he or she is assigned means, under these circumstances, that the Lenoir City Municipal Judge must have been a resident of Loudon County for at least one year prior to the judge's election because the Lenoir City Municipal Court has concurrent jurisdiction with the Loudon County General Sessions Court. Accordingly, inasmuch as the defendant had been a resident of Loudon County for at least one year prior to the election, we affirm the trial court's dismissal of the plaintiff's election contest. However, we modify the trial court's judgment to state that the defendant complied with the residency requirement at issue because he had been a resident of Loudon County for at least one year rather than because he had been a resident of the Ninth Judicial District for the prescribed time period. |
| 5. | Status                     | Application granted 4/11/24. Appellant's brief filed 5/13/24.   |
| 6. | Issue(s)                   | Article VI, Section 4 of the Tennessee Constitution requires judges of inferior courts to "be elected by the qualified voters of the district or circuit to which they are assigned" and to be a resident "of the circuit or district [for] one year." Does this provision require a municipal judge exercising concurrent general sessions jurisdiction to be a resident of the city that elects her to serve (as McNabb claims), the county in which the city sits (as the Court of Appeals concluded), or the modern-day multi-county judicial district in which the city sits (as the Chancery Court and Attorney General concluded)?   |

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| 1. | Style                      | State of Tennessee v. Pervis Tyrone Payne   |
| 2. | Docket Number              | W2022-00210-SC-R11-CD   |
| 3. | Lower Court Decision Links | <a href="https://www.tncourts.gov/sites/default/files/OpinionsPDFVersion/PaynePervisTyrone%20OPN.pdf">https://www.tncourts.gov/sites/default/files/OpinionsPDFVersion/PaynePervisTyrone OPN.pdf</a> |
| 4. | Lower Court Summary        | In this case of first impression, the State appeals the trial court's sentencing hearing order that the Defendant's two life sentences be served concurrently after he was                          |

determined to be ineligible for the death penalty due to intellectual disability pursuant to Tennessee Code Annotated section 39-13-203(g) (Supp. 2021) (subsequently amended). The State argues that the consecutive alignment of the Defendant's original sentences remained final and that the trial court lacked jurisdiction to consider manner of service. The Defendant responds that the trial court had jurisdiction to sentence him, including determining the manner of service of his sentences, and did not abuse its discretion in imposing concurrent life sentences. After considering the arguments of the parties, the rules of statutory construction, and other applicable legal authority, we conclude that the trial court properly acted within its discretion in conducting a hearing to determine the manner of service of the Defendant's life sentences. Accordingly, the judgments of the trial court are affirmed.

5. Status Application granted 2/12/24. Appellant's brief filed 4/12/24; motion for extension to file appellee's brief granted and due 6/12/24.
6. Issue(s) As stated in the Appellant's Rule 11 Application:  
  
Whether a trial court lacks jurisdiction to reconsider the consecutive alignment of a defendant's original sentences after a determination of intellectual disability pursuant to a petition under Tenn. Code Ann. § 39-13-203(g).

1. Style Pharma Conference Education, Inc. v. State of Tennessee
2. Docket Number W2021-00999-SC-R11-CV
3. Lower Court Decision Links [PharmaConferenceEducationOPN.pdf \(tncourts.gov\)](#)
4. Lower Court Summary This appeal arises from a breach of contract case that concerned whether the contract at issue lacked consideration due to an illusory promise. Specifically, the terms of the contract provided that the plaintiff would produce as many programs "as is feasible." The parties filed competing motions for summary judgment. The claims commission granted the State of Tennessee's motion for summary judgment finding that the contract between the parties was devoid of consideration due to an illusory promise and was therefore unenforceable. Additionally, the claims commission denied the plaintiff's motion for summary judgment as to liability and denied the plaintiff's motion for summary judgment as to damages finding that the issue was moot. The plaintiff appeals. We affirm.
5. Status Heard 12/6/23 SCALES at Martin
6. Issue(s) As stated in the Appellant's Rule 11 Application:  
  
Did the Court of Appeals of Tennessee err by affirming the Tennessee Claims Commission's finding that the contract at issue lacks consideration due to an illusory promise and is unenforceable when such a finding undermines the uniformity and consistency of Tennessee law governing contract interpretation?

Pharma included the following sub-issues, which are largely in the nature of arguments:

A. Did the Opinion of the Court of Appeals create inconsistencies and threaten the uniformity and settlement of important questions of law by finding the contract at issue to be illusory despite Tennessee’s presumption in favor consideration?

*See* Tenn. Code Ann. § 47-50-103 (“All contracts in writing signed by the party to be bound, or the party’s authorized agent and attorney, are prima facie evidence of consideration”).

B. Did the Opinion of the Court of Appeals create inconsistencies and threaten the uniformity and settlement of important questions of law by failing to impose a duty of good faith and fair dealing in the performance and interpretation of the contract at issue?

*See, e.g., German v. Ford*, 300 S.W.3d 692, 704 (Tenn. Ct. App. 2009) (“A contractual obligation, however, is not illusory if the party’s discretion must be exercised with reasonableness or good faith”); *Rode Oil Co. v. Lamar Adver. Co.*, No. W2007-02017-COA-R3-CV, 2008 Tenn. App. LEXIS 532, at \*34 (Tenn. Ct. App. Sept. 18, 2008) (“Every contract imposes upon the parties a duty of good faith and fair dealing in the performance and interpretation of the contract.” *Id.* at \*34 (citing *Elliot v. Elliot*, 149 S.W.3d 77, 84-85 (Tenn. Ct. App. 2004))).

C. Did the Opinion of the Court of Appeals create inconsistencies and threaten the uniformity and settlement of important questions of law by allowing the breaching party to prevent Appellant’s performance under the contract at issue?

*See German v. Ford*, 300 S.W.3d 692, 706 (Tenn. Ct. App. 2009) (“[E]very contract includes an implied condition that one party will not prevent performance by the other party.”) (citing *Moody Realty Co. v. Huestis*, 237 S.W.3d 666, 678 (Tenn. Ct. App. 2007)).

D. Did the Opinion of the Court of Appeals create inconsistencies and threaten the uniformity and settlement of important questions of law by adopting a 1955 case from Alabama that is inconsistent with current Tennessee law?

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| 1. | Style                      | Connie Reguli v. BPR  |
| 2. | Docket Number              | M2024-00153-SC-R3-BP  |
| 3. | Lower Court Decision Links | N/A   |
| 4. | Lower Court Summary        | N/A   |
| 5. | Status                     | Notice of appeal filed 2/16/24. Motion for extension to file the record granted and due 7/5/24. |
| 6. | Issue(s)                   | N/A   |

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| 1. | Style         | Clayton D. Richards v. Vanderbilt University Medical Center |
| 2. | Docket Number | M2022-00597-SC-R11-CV                                       |

3. Lower Court Decision Links <https://www.tncourts.gov/sites/default/files/OpinionsPDFVersion/Majority%20Opinion%202022-597-COA.pdf>  
<https://www.tncourts.gov/sites/default/files/OpinionsPDFVersion/Separate%20Opinion%202022-597-COA.pdf>
4. Lower Court Summary This appeal concerns a complaint for health care liability. Although Tennessee Code Annotated section 29-26-121(c) provides for an extension of the applicable statutes of limitations in health care liability actions when pre-suit notice is given, it also specifies that “[i]n no event shall this section operate to shorten or otherwise extend the statutes of limitations or repose applicable to any action asserting a claim for health care liability, nor shall more than one (1) extension be applicable to any [health care] provider.” After a prior lawsuit was voluntarily dismissed without prejudice, Plaintiff provided new pre-suit notice and refiled in reliance on the Tennessee saving statute and an extension under Tennessee Code Annotated section 29-26-121(c). The trial court dismissed the refiled complaint with prejudice, however, holding, among other things, that Plaintiff could not utilize the statutory extension in his refiled action because he had already utilized a statutory extension in the first lawsuit. For the reasons discussed herein, we affirm the trial court’s dismissal of Plaintiff’s lawsuit.
5. Status Application granted 12/20/23; Fully briefed.TBH 5/29/24 in Nashville.
6. Issue(s) As stated in the Appellant’s Rule 11 Application:  
  
Whether the 120-day extension provided in Tennessee Code Annotated section 29-26-121(c) extends the refiling period in the saving statute for a plaintiff who provided presuit notice prior to filing the initial complaint.

1. Style State of Tennessee v. William Rimmel, III
2. Docket Number M2022-00794-SC-R11-CD
3. Lower Court Decision Links <https://www.tncourts.gov/sites/default/files/OpinionsPDFVersion/Majority%20Opinion%202022-794-CCA.pdf>
4. Lower Court Summary Defendant, William Rimmel, III, was indicted by the Marion County Grand Jury for one count of aggravated assault, two counts of reckless endangerment, one count of false imprisonment, one count of vandalism over \$2,500, and one count of burglary of an automobile. The charge of false imprisonment was dismissed prior to trial. A jury found Defendant guilty of attempted aggravated assault, reckless endangerment, attempted reckless endangerment, vandalism under \$1,000, and attempted burglary of an automobile. Following a sentencing hearing, the trial court denied Defendant’s request for judicial diversion and imposed an effective sentence of two years on probation following service of 11 months and 29 days in confinement. On appeal, Defendant contends that the evidence was insufficient to support his convictions, that the trial court abused its discretion in denying Defendant’s request for an alternative sentence and in ordering consecutive sentencing, that his convictions should be vacated due to the State’s failure to preserve evidence, and that the trial court gave confusing jury instructions. Based on the record, the briefs, and oral arguments, we affirm the judgments of the trial court but remand for entry of a judgment in Count 4 and amended judgment in Count 3, reflecting that those counts were dismissed, and for entry of corrected judgments in Counts 5 and 6.



5. Status Fully briefed. Heard 5/22/24 SCALES docket in Cookeville.
6. Issue(s) As stated in the Appellant's Rule 11 Application:
- A. Whether the convictions for attempted aggravated assault with a handgun and reckless endangerment with a handgun where the victim is unaware of the handgun conflict with the Supreme Court's opinion and other opinions of the Court of Criminal Appeals that the victim must be reasonably in fear of imminent bodily injury?

7. Style Frank L. Slaughter, Jr. v. BPR
8. Docket Number E2023-01567-SC-R3-BP
9. Lower Court Decision Links N/A
10. Lower Court Summary N/A
11. Status Notice of appeal filed 11/6/23. Record filed 3/7/24. Appellant's brief filed 4/15/24; Appellee's brief filed 5/15/24.
12. Issue(s) N/A

1. Style Heather Smith v. Blue Cross Blue Shield of Tennessee
2. Docket Number E2022-01058-SC-R11-CV
3. Lower Court Decision Links <https://www.tncourts.gov/sites/default/files/OpinionsPDFVersion/E2022-1058.pdf>
4. Lower Court Summary This appeal concerns a claim of retaliatory discharge. Heather Smith ("Smith"), then an at-will employee of BlueCross BlueShield of Tennessee, Inc. ("BlueCross"), declined to take a Covid-19 vaccine. Smith emailed members of the Tennessee General Assembly expressing her concerns and grievances about vaccine mandates. BlueCross fired Smith after it found out about her emails. Smith sued BlueCross for common law retaliatory discharge in the Chancery Court for Hamilton County ("the Trial Court"). For its part, BlueCross filed a motion to dismiss for failure to state a claim. After a hearing, the Trial Court granted BlueCross's motion to dismiss. Smith appeals. We hold that Article I, Section 23 of the Tennessee Constitution, which guarantees the right of citizens to petition the government, is a clear and unambiguous statement of public policy representing an exception to the doctrine of employment-at-will. Smith has alleged enough at this stage to withstand BlueCross's motion to dismiss for failure to state a claim. We reverse the Trial Court and remand for further proceedings consistent with this Opinion.
5. Status Fully briefed. Heard 5/22/24 SCALES docket in Cookeville.
6. Issue(s) As stated in the Appellant's Rule 11 Application:

Whether the Court of Appeals erred when it created a new public policy exception to the employment-at-will doctrine not recognized by or otherwise linked to action by the Tennessee General Assembly.

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| 1. | Style                      | Robert L. Trentham v. Mid-America Apartments, LP et al.  |
| 2. | Docket Number              | M2021-01511-SC-R11-CV  |
| 3. | Lower Court Decision Links | <a href="https://www.tncourts.gov/sites/default/files/OpinionsPDFVersion/Trentham%2C%20R%20-%20Opn%20Filed.pdf">https://www.tncourts.gov/sites/default/files/OpinionsPDFVersion/Trentham%2C%20R%20-%20Opn%20Filed.pdf</a>  |
| 4. | Lower Court Summary        | This appeal concerns premises liability. The plaintiff slipped and fell on a pedestrian bridge on the defendants' property. The trial court entered judgment in favor of the plaintiff. The defendants appeal. We affirm.  |
| 5. | Status                     | Heard 12/6/23 SCALES at Martin   |
| 6. | Issue(s)                   | As stated in the Appellant's Rule 11 Application:<br><br>In Tennessee premises-liability law, is the foreseeability of a hazardous condition developing legally sufficient to impute constructive knowledge of the condition's actual existence to the property owner? |

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| 1. | Style                      | Charles Youree, Jr. v. Recovery House of East Tennessee, LLC et al.  |
| 2. | Docket Number              | M2021-01504-SC-R11-CV  |
| 3. | Lower Court Decision Links | <a href="https://www.tncourts.gov/sites/default/files/OpinionsPDFVersion/E-SIGNED%20-%20M2021-1504-COA-YOUREE.pdf">https://www.tncourts.gov/sites/default/files/OpinionsPDFVersion/E-SIGNED%20-%20M2021-1504-COA-YOUREE.pdf</a>  |
| 4. | Lower Court Summary        | A landlord leased property to company A. When company A breached the lease, the landlord filed suit against the company to recover monetary damages. A default judgment was entered against company A and, when company A failed to make any payments on that judgment, the landlord filed suit against company B and company C. The landlord alleged that the corporate veil should be pierced to hold company B and company C liable for company A's debt because they were the alter egos of company A. After a default judgment was entered against company B and company C, they motioned to have the judgment set aside because the landlord's complaint failed to allege sufficient facts to state a claim for piercing the corporate veil. The trial court denied the motion to set aside, and the two companies appealed. Discerning that the complaint does not state sufficient factual allegations to articulate a claim for piercing the corporate veil, we reverse and remand. |
| 5. | Status                     | Fully briefed. TBH 5/29/24 in Nashville.   |
| 6. | Issue(s)                   | As stated in the Appellant's Rule 11 Application:<br><br>"Whether a defaulting party may have a default judgment set aside when it concedes that it cannot show excusable neglect for failing to respond to the complaint."  |

“Whether the Chancellor abused her discretion when she ruled that the complaint stated a claim for relief sufficient to pierce the corporate veil.”