

IN THE SUPREME COURT OF TENNESSEE  
AT NASHVILLE

2009 DEC 14 PM 3:12

APPELLATE COURT CLERK  
NASHVILLE

IN RE: AMENDMENTS TO TENNESSEE  
RULES OF APPELLATE PROCEDURE

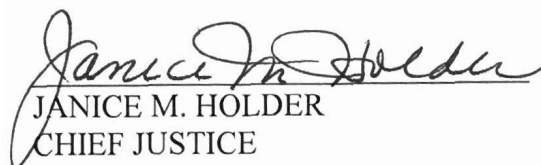
**ORDER**

The Court adopts the attached amendments effective July 1, 2010, subject to approval by resolutions of the General Assembly. The rules amended are as follows:

RULE 11	APPEAL BY PERMISSION FROM APPELLATE COURT TO SUPREME COURT;
RULE 27	CONTENT OF BRIEFS;
RULE 40	COSTS.

IT IS SO ORDERED.

FOR THE COURT:

  
JANICE M. HOLDER  
CHIEF JUSTICE

TENNESSEE RULES OF APPELLATE PROCEDURE

RULE 11

APPEAL BY PERMISSION FROM  
APPELLATE COURT TO SUPREME COURT

[Amend Rule 11(b) to read as follows:]

(a) \* \* \* \*

(b) Time; Content. — The application for permission to appeal shall be filed with the clerk of the Supreme Court within 60 days after the entry of the judgment of the Court of Appeals or Court of Criminal Appeals if no timely petition for rehearing is filed, or, if a timely petition for rehearing is filed, within 60 days after the denial of the petition or entry of the judgment on rehearing. The application shall contain a statement of: (1) the date on which the judgment was entered and whether a petition for rehearing was filed, and if so, the date of the denial of the petition or the date of entry of the judgment on rehearing; (2) the questions presented for review and, for each question presented, a concise statement of the applicable standard of review (which may appear in the discussion of the issue or under a separate heading placed before the discussion of the issues); (3) the facts relevant to the questions presented, but facts correctly stated in the opinion of the intermediate appellate court need not be restated in the application; and (4) the reasons, including appropriate authorities, supporting review by the Supreme Court. The brief of the appellant referred to in subdivision (f) of this rule may be served and filed with the application for permission to appeal. A copy of the opinion of the appellate court shall be appended to the application.

(c) \* \* \* \*

## 2010 Advisory Commission Comment

Rule 11 is amended to require that the application for permission to appeal include, for each question presented, a statement of the applicable standard of review. Although Tenn. R. App. P. 11(a) lists various criteria considered by the Court in deciding whether or not to grant an application for permission to appeal, the “applicable standard of review” means the standard of review which would be applied by the Court in deciding the case on the merits, if the Court were to grant the application for permission to appeal.

TENNESSEE RULES OF APPELLATE PROCEDURE

RULE 27

CONTENT OF BRIEFS

[Amend Rule 27(a)(7) and (b) to read as follows:]

(a) Brief of the Appellant. – The brief of the appellant shall contain under appropriate headings and in the order here indicated:

\* \* \* \*

(7) An argument, which may be preceded by a summary of argument, setting forth:

(A) the contentions of the appellant with respect to the issues presented, and the reasons therefor, including the reasons why the contentions require appellate relief, with citations to the authorities and appropriate references to the record (which may be quoted verbatim) relied on; and

(B) for each issue, a concise statement of the applicable standard of review (which may appear in the discussion of the issue or under a separate heading placed before the discussion of the issues);

(8) \* \* \* \*

(b) Brief of the Appellee. – The brief of appellee and all other parties shall conform to the foregoing requirements, except that items (3), (4), (5), (6) and 7(B) of subdivision (a) of this rule need not be included except to the extent that the presentation by the appellant is deemed

unsatisfactory. If appellee is also requesting relief from the judgment, the brief of the appellee shall contain the issues and arguments involved in his request for relief as well as the answer to the brief of appellant.

(c) \* \* \* \*

#### 2010 Advisory Commission Comment

Rule 27(a) is amended to require that the appellant's brief include, for each issue presented, a statement of the applicable standard of review. Rule 27(b) is amended to add a cross-reference to amended Rule 27(a)(7)(B).

TENNESSEE RULES OF APPELLATE PROCEDURE

RULE 40

COSTS

[Amend Rule 40(a) to read as follows:]

(a) To Whom Allowed. – Except as otherwise provided by statute or these rules, if an appeal is dismissed, costs shall be taxed against the appellant unless otherwise agreed by the parties or ordered by the court; if a judgment is affirmed, costs shall be taxed against the appellant unless otherwise ordered; if a judgment is reversed, costs shall be taxed against the appellee unless otherwise ordered; if a judgment is affirmed or reversed in part, or is vacated, costs shall be allowed only as ordered by the appellate court. Costs related to the filing of motions, orders and briefs by amicus curiae shall be assessed and collected against the amicus curiae filer unless the court orders otherwise.

(b) \* \* \* \*

2010 Advisory Commission Comment

The amendment to Rule 40(a) provides that costs associated with the filing of an amicus brief will automatically be assessed against the amicus at the time of the filing of the amicus brief unless the court provides otherwise.