

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

2009 DEC 14 PM 3:39

APPELLATE COURT CLERK
NASHVILLE

IN RE: AMENDMENTS TO TENNESSEE
RULES OF EVIDENCE

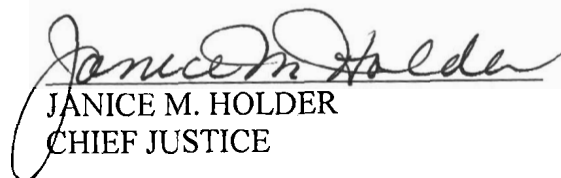
ORDER

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 501 PRIVILEGES RECOGNIZED ONLY AS
PROVIDED;
RULE 502 LIMITATIONS ON WAIVER OF PRIVILEGED
INFORMATION OR WORK PRODUCT;
RULE 903 SUBSCRIBING WITNESSES' TESTIMONY.

IT IS SO ORDERED.

FOR THE COURT:


JANICE M. HOLDER
CHIEF JUSTICE

TENNESSEE RULES OF EVIDENCE

RULE 501

PRIVILEGES RECOGNIZED ONLY AS PROVIDED

* * * *

[The text of the rule is unchanged; **delete** from the 1999 Advisory Commission Comment the following text:]

T.R.Crim.P. 6(k). GRAND JURY-WITNESS PRIVILEGE

(1) Grand Jury Proceedings Secret. – Every member of the grand jury shall keep secret the proceedings of that body, and the testimony given before them except as provided in subdivision (2) below.

(2) Exception to Rule of Secrecy. – A member of the grand jury may be required by the court to disclose the testimony of a witness examined before them, for the purpose of ascertaining whether it is consistent with that given by the witness before the court, or to disclose the testimony given before them by any witness charged with perjury.

2010 Advisory Commission Comment

Delete from the 1999 comment the reference to Tenn. R. Crim. P. 6(k), which is not really a privilege.

TENNESSEE RULES OF EVIDENCE

RULE 502

LIMITATIONS ON WAIVER OF PRIVILEGED
INFORMATION OR WORK PRODUCT

[Adopt this new Rule 502:]

Inadvertent disclosure of privileged information or work product does not operate as a waiver

- (1) the disclosure is inadvertent,
- (2) the holder of the privilege or work-product protection took reasonable steps to prevent disclosure, and
- (3) the holder promptly took reasonable steps to rectify the error.

2010 Advisory Commission Comment

This language is taken from Federal Rule of Evidence 502(b). Compare Tennessee Rule of Civil Procedure 26.02(5) on discovery of electronically stored information.

TENNESSEE RULES OF EVIDENCE

RULE 903

SUBSCRIBING WITNESSES' TESTIMONY

[Amend the title of Rule 903 to read as set out above (the text of the rule is unchanged).]

* * * *

2010 Advisory Commission Comment

The title of the rule is changed to reflect reality. A Tennessee statute does necessitate testimony of all living witnesses in a will contest "if to be found." T.C.A. § 32-4-105.