

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

FILED 08/02/2021 Clerk of the Appellate Courts
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**IN RE: AMENDMENT TO TENNESSEE SUPREME COURT RULE 10,
COMMENTS TO RJC_s 2.6 AND 3.9**

No. ADM2021-00865

ORDER

On October 3, 2018, the Court filed an Order adopting a comprehensive revision of Tennessee Supreme Court Rule 31 and a new Tennessee Supreme Court Rule 31A, which set out the rules governing alternative dispute resolution. As provided in the Order, revised Tennessee Supreme Court Rule 31 and Rule 31A took effect November 1, 2018, with the exception of certain provisions of Rule 31, which took effect November 1, 2019. The Alternative Dispute Resolution Commission has brought to the Court's attention that the Comments to Tennessee Supreme Court Rule 10, RJC_s 2.6 and 3.9 continue to reference the prior version of Rule 31. The Court has determined that a minor housekeeping amendment is necessary to correct these cross-references.

After due consideration, the Court hereby amends the Comments to Tennessee Supreme Court Rule 10, RJC_s 2.6 and 3.9 in the form set out in the attached Appendix to this order. This amendment is effective immediately.

The Clerk shall provide a copy of this order to LexisNexis and to Thomson Reuters. In addition, this order shall be posted on the Tennessee Supreme Court's website.

IT IS SO ORDERED.

PER CURIAM

APPENDIX

AMENDMENT TO COMMENTS TO TENN. SUP. CT. R. 10, RJC's 2.6 and 3.9

[Deleted text is indicated by overstriking. New text is indicated by underlining]

RULE 10: CODE OF JUDICIAL CONDUCT.

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CANON 2 — A JUDGE SHALL PERFORM THE DUTIES OF JUDICIAL OFFICE IMPARTIALLY, COMPETENTLY, AND DILIGENTLY.

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Rule 2.6 Ensuring the Right to Be Heard

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Comment

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[4] A judicial settlement conference, as discussed in this Rule, is a mediation conducted by a judicial officer as defined in Tenn. Sup. Ct. Rule ~~31~~31A. A judicial settlement conference does not include scheduling conferences or other pretrial conferences. *See, e.g.*, Tenn. R. Civ. P. 16 and Tenn. R. Crim. P. 17.1.

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CANON 3 — A JUDGE SHALL CONDUCT THE JUDGE'S PERSONAL AND EXTRAJUDICIAL ACTIVITIES TO MINIMIZE THE RISK OF CONFLICT WITH THE OBLIGATIONS OF JUDICIAL OFFICE.

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Rule 3.9 Service as Arbitrator or Mediator

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Comment

[1] This Rule does not prohibit a judge from participating in arbitration, mediation, or settlement conferences performed as part of assigned judicial duties. Rendering dispute resolution services apart from those duties, whether or not for economic gain, is prohibited unless it is expressly authorized by law. See Tenn. S. Ct. R. 31, § ~~17~~14(i) (permitting various part-time judges to serve as mediators) and Tenn. S. Ct. R. ~~31, § 20~~31A, § 16 (authorizing trial judges to participate in judicial settlement conferences). See also RJC 2.6 and Comments [2], [3], and [4] thereto regarding the role of a judge in judicial settlement conferences. A judge who participates in a judicial settlement conference is precluded by RJC 2.6 from presiding over the trial or any other contested issues in that matter.