

IN THE SUPREME COURT OF TENNESSEE  
AT NASHVILLE

FILED

12/14/2021

Clerk of the  
Appellate Courts

IN RE: PROPOSED AMENDMENTS TO TENNESSEE RULES OF  
APPELLATE PROCEDURE

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No. ADM2021-00969

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**ORDER**

The Court adopts the attached amendments effective July 1, 2022, subject to approval by resolution of the General Assembly. The rules amended are as follows:

RULE 9 INTERLOCUTORY APPEAL BY PERMISSION  
FROM THE TRIAL COURT

RULE 10 EXTRAORDINARY APPEAL BY PERMISSION  
ON ORIGINAL APPLICATION IN THE APPELLATE  
COURT

RULE 11 APPEAL BY PERMISSION FROM APPELLATE  
COURT TO SUPREME COURT


RULE 27 CONTENT OF BRIEFS

RULE 30 FORM OF BRIEFS AND OTHER PAPERS

The text of each amendment is set out in the attached Appendix.

IT IS SO ORDERED.

FOR THE COURT:



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ROGER A. PAGE  
CHIEF JUSTICE

*APPENDIX*

*AMENDMENTS TO THE  
RULES OF APPELLATE PROCEDURE*

**[Deleted text is indicated by overstriking,  
and new text is indicated by underlining.]**

TENNESSEE RULES OF APPELLATE PROCEDURE

RULE 9

INTERLOCUTORY APPEAL BY PERMISSION FROM THE TRIAL COURT

[Amend Rule 9(e) as indicated below:]

...

**(e) Subsequent Procedure.** After the answer is filed, or if no answer is filed within the time permitted, the appellate court shall either grant or deny the application. If the application is granted, the trial court clerk must file the record on appeal within 30 days from the date of entry of the order granting permission to appeal. The filing content, filing, and form of briefs following the granting of an application under this rule ~~is~~ are governed by ~~the~~ Rules 27-30, unless otherwise ordered by the appellate court.

...

*Advisory Commission Comment [2022]*

Subsection(e) refers to Rule 27 through Rule 30 regarding the content, filing, and form of briefs and other papers. Rules 27 and 30 have been revised to reflect the length of briefs and other referenced papers is now determined by word limitations as opposed to page limitations.

TENNESSEE RULES OF APPELLATE PROCEDURE

RULE 10

EXTRAORDINARY APPEAL BY PERMISSION ON ORIGINAL APPLICATION IN THE  
APPELLATE COURT

[Amend Rule 10(d) as indicated below:]

...

**(d) Subsequent Procedure.** If the appellate court is of the opinion that an extraordinary appeal should not be granted, it shall deny the application. Otherwise, the appellate court shall order that an answer to the application be filed by the other parties within the time fixed by the order. The order shall be served on all other parties and if the application has not previously been served shall have attached thereto a copy of the application. ~~Such~~ An answers shall be accompanied by an appendix containing any additional parts of the record the answering party desires to have considered by the appellate court; any statement of facts in the answer shall contain appropriate references to the documents contained in the appendix to the application or the appendix to the answer. After the answer is filed, the appellate court shall either grant or deny the application. If the application is granted, the trial court clerk must file the record on appeal within 30 days from the date of entry of the order granting permission to appeal or within such other period as the appellate court may direct. The appellate court shall advise the parties of the dates on which briefs are to be filed, if briefs are required, and of the date of oral argument, if oral argument is granted. Except as otherwise expressly provided in this rule or ordered by the court, the content, filing, and form of briefs under this rule are governed by Rules 27-30.

*Advisory Commission Comment [2022]*

Subsection(d) refers to Rule 27 through Rule 30 regarding the content, filing, and form of briefs and other papers. Rules 27 and 30 have been revised to reflect the length of briefs and other referenced papers is now determined by word limitations as opposed to page limitations.

# TENNESSEE RULES OF APPELLATE PROCEDURE

## RULE 11

### APPEAL BY PERMISSION FROM APPELLATE COURT TO SUPREME COURT

[Amend Rules 11(b), (d), and (f) as indicated below:]

...

**(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. Except for an application seeking to appeal the Court of Criminal Appeals' disposition of an appeal pursuant to Rule 9 or Rule 10, the time period for filing an application for permission to appeal is not jurisdictional in a case arising from the Court of Criminal Appeals and may be waived by the Supreme Court in the interest of justice. 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 the 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, with appropriate references to the record, 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 application shall not exceed 15,000 words as set forth in Rule 30(e). Except by order of the Supreme Court, the argument in an application for permission to appeal shall not exceed 50 pages.~~ 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.

...

**(d) Answer; Reply.** Within 15 days after filing of the application, any other party may file an answer in opposition, with copies in the number required for the application. An answer shall set forth the reasons why the application should not be granted and any other matters considered necessary for correction of the application. Additional facts stated in the answer shall contain appropriate references to the record. The answer shall not exceed 5,000 words as set forth in Rule 30(e). ~~Except by order of the Supreme Court, the argument in an answer in opposition shall not exceed 25 pages.~~ The answer shall be served on all other parties in the manner provided in Rule 20 for the filing of papers. No reply to the answer shall be filed.

...

**(f) Briefs.** Except as provided in the next paragraph, if permission to appeal is granted, the appellant shall serve and file ~~his~~ a brief within 30 days after the date on which permission to appeal was granted. If the appellant files a brief with the application for permission to appeal as provided in subdivision (b) of this rule, ~~he or she~~ the appellant may also file a supplemental brief, which shall likewise be served and filed within 30 days after the date on which permission to appeal was granted. ~~Except by order of the Supreme Court, the argument in a supplemental brief shall not exceed 25 pages.~~ If available, the color of the cover of a supplemental brief shall

be blue. An appellant who elects not to file a supplemental brief shall, within 30 days after the date on which permission to appeal was granted, file with the clerk of the appellate court and serve on the appellee notice of the appellant's election not to file a supplemental brief; if the appellant fails to file a notice within 30 days, the appellee's time to file a brief runs from the 30th day after permission to appeal was granted.

The appellee shall serve and file a brief within 30 days after filing of the brief or supplemental brief of the appellant or appellant's notice of election not to file a supplemental brief.

If the Supreme Court grants an application for permission to appeal from the denial of a Tenn. R. App. P. 9 application, the appellant shall serve and file a his or her brief within 30 days after the date on which the record on appeal is filed pursuant to Tenn. R. App. P. 9(e). The briefs filed in such cases shall otherwise be governed by this subdivision (f).

Reply briefs shall be served and filed within 14 days after filing of the preceding brief.

~~The briefs shall conform with the requirements of Rule 27.~~

Except as otherwise expressly provided in this rule or ordered by the court, the content, filing, and form of briefs under this rule are governed by Rules 27-30.

*Advisory Commission Comment [2022]*

Subsections (b), (d), and (f) have been revised to refer to Rule 27 through Rule 30, as appropriate. Rules 27 and 30 have been revised to reflect the length of briefs and other referenced papers is now determined by word limitations as opposed to page limitations.



TENNESSEE RULES OF APPELLATE PROCEDURE

RULE 27

CONTENT OF BRIEFS

[Amend Rule 27(i) as indicated below:]

...

(i) **Page Word Limitations.** Except by order of the appellate court or a judge thereof, ~~arguments in principal briefs shall not exceed 50 pages, and arguments in reply briefs shall not exceed 25 pages.~~ briefs shall comply with the word limitations provided in Rule 30(e).

*Advisory Commission Comment [2022]*

Rule 27(i) has been revised to reflect the length of briefs and other referenced papers is now determined by word limitations as opposed to page limitations in accordance with revisions to Rule 30(e).

TENNESSEE RULES OF APPELLATE PROCEDURE

RULE 30

FORM OF BRIEFS AND OTHER PAPERS

[Add Rule 30(e) as indicated below:]

...

**(e) Word Limitations of Briefs and Other Papers.** Except by order of the court, briefs and other specifically referenced papers shall comply with the following word limitations: (1) principal briefs and applications pursuant to Rule 11 shall be limited to 15,000 words, (2) reply briefs, answers pursuant to Rule 11, and supplemental briefs pursuant to Rule 11 shall be limited to 5,000 words, and (3) amicus briefs shall be limited to 7,500 words.

The following sections of a brief and other referenced papers shall be excluded from these word limitations: Title/Cover page, Table of Contents, Table of Authorities, Certificate of Compliance, Attorney Signature Block, and Certificate of Service.

All briefs and other papers subject to word limitations under these rules must include a certificate by the attorney or unrepresented party that the brief or other paper complies with the applicable word limitation and must state the number of words in the brief or other paper. The person certifying compliance may rely on the word count of the word processing system used to prepare the brief or other paper.

*Advisory Commission Comment [2022]*

This rule adopts a word limitation provision for all briefs and other referenced papers. This rule is also amended to require a certification of compliance with the word limitation provisions of this rule.