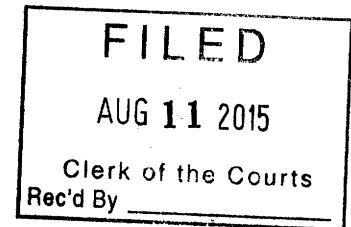


From: "Vivian Underwood Shipe" <Doctorshipe@yahoo.com>
To: <lisa.marsh@tncourts.gov>
Date: 8/11/2015 1:25 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Tuesday, August 11, 2015 - 1:25pm
Submitted by anonymous user: [70.193.57.160]
Submitted values are:

Your Name: Vivian Underwood Shipe
Your Address: Box 1973
Your email address: Doctorshipe@yahoo.com
Your Position or Organization: I AM The Voice of the Voiceless
Rule Change: Supreme Court Rule 30
Docket number: Admin2015-00451
Your public comments: There should not be a change in media courtrooms coverage. The unrest and distrust in the country calls for openness and transparency. Knoxville courts provide a flagship example for the rest of the country to follow.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/12533>

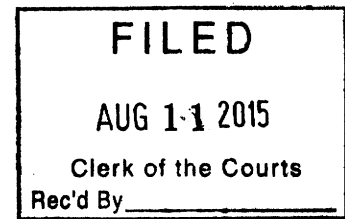


From: "Joe Stagner" <editor@yourcommunityshopper.com>
To: <lisa.marsh@tncourts.gov>
Date: 8/11/2015 2:11 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Tuesday, August 11, 2015 - 2:10pm
Submitted by anonymous user: [76.164.161.2]
Submitted values are:

Your Name: Joe Stagner
Your Address: P.O. Box 249
Your email address: editor@yourcommunityshopper.com
Your Position or Organization: Publisher/owner
Rule Change: Supreme Court Rule 30
Docket number: ADMIIN2015-00451
Your public comments: In considering changes to Rule 30 please remember that increasing requirements on working journalists would also increase the amount of work for the court by requiring the processing of the requests before the court proceeds. Electronic devices have replaced the pen and pad once used by journalist.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/12536>



**IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE**

FILED

AUG 10 2015

Clerk of the Courts
Rec'd By _____

IN RE:

**AMENDMENT OF RULE 30,
RULES OF THE
TENNESSEE SUPREME COURT**

No. ADMIN20015-00451

COMMENT OF TENNESSEE PRESS ASSOCIATION

The Tennessee Press Association ("TPA") respectfully submits the following comment concerning the proposed amendments to Tennessee Supreme Court Rule 30 and requests that the Court adopt the proposed revisions to proposed new Rule 30 as submitted previously by the Tennessee Bar Association. Further in support of this position, TPA asserts as follows:

TPA is a duly incorporated association existing under the laws of the State of Tennessee. It was founded in 1870 for the purpose of creating a unified voice for the newspaper industry. Presently, TPA's membership exceeds 160 organizations and entities. This number includes 122 daily and nondaily newspapers, 15 collegiate journalism programs located in the State of Tennessee and 24 additional associate members. Among the associate members are AT&T, TVA and the Tennessee Military Department.

During almost one and one-half centuries of continuous existence, TPA has drafted, participated in drafting, sponsored and secured the passage of significant legislation having as its purpose the assuring of access by the citizens

of Tennessee to information concerning their government and its activities. TPA has always been and remains committed to the fullest possible access to government information by the citizens of this state. In 1995, TPA welcomed and fully supported the adoption of Rule 30 because it saw the new rule as a significant enhancement of public access to judicial proceedings which would have, among its other benefits, an increased understanding and appreciation by the public of the judicial process.

There have been tremendous changes in technology since the adoption of Rule 30 twenty years ago. Handheld devices now offer more capabilities for recording video or audio material than the cumbersome shoulder-carried cameras of the 1980s. TPA's members have experienced the positive benefits of Rule 30. They have a deep respect for Tennessee's courts and their tradition of openness. TPA's members believe that Tennesseans know more about their courts and what goes on in them because of this tradition of openness. They feel that the public debate and discussions concerning the recent judicial retention elections would have been far less informed and far less productive had not this tradition of openness existed.

Many of our members who have studied the Court's proposed revisions to Rule 30 are concerned that its adoption as submitted would create an extreme hardship for ordinary working journalists. If the interpretation of the new provisions of Rule 30 would require a request two days before a journalist wished to employ any electronic device in the courtroom, and required court approval, a totally impractical situation could be created. It is virtually an

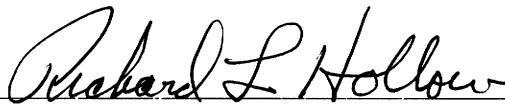
impossibility for a journalist to provide two days' advance notice of the employment of a hand-held electronic recorder or smartphone given the reality and real world requirements of present day news coverage. If the interpretation of the proposed changes compelled the two day advance request presently in Rule 30 for cameras in the courtroom, no journalist could bring any smartphone, tablet, laptop or any other similar device into a courtroom without the required notice. This substantially inhibits journalistic efforts to fairly and accurately report legal proceedings. Journalists are not automatically privy to notice of proceedings, not all proceedings are even noticed two days in advance, and reporting assignments frequently are not made 48 hours ahead of events.

The technological changes of these past 20 years have altered the landscape for journalists dramatically. Doubtless there will be new devices with even greater enhanced capability, more flexibility and miniaturization available in the immediate future. In order to avoid Rule 30 becoming stagnant or outdated, it is necessary for definitions and descriptions to be sufficiently broad to encompass changes in technology without requiring the Court to revisit the Rule and its provisions on an almost annual basis. TPA, therefore, believes that the function of the device and the use to which it is put is an appropriate matter to be addressed by the Rule and not the technical name or identity of the device itself. Therefore, as previously stated, TPA endorses and supports the proposed revision of Rule 30 submitted by the Tennessee Bar Association in its recent Comment filed with the Court. TPA believes that the TBA proposal appropriately balances the journalist's need to employ the latest technology to remain viable

and competitive while still providing courts the opportunity and discretion to regulate the proceedings before them. The TBA proposal, which contains more focused definitions of "electronic devices" and "coverage", defines a better standard for court review of media requests and, by employing language codified in T.C.A. §24-1-208 which was authored, supported and passed by TPA in 1973, provides a more focused description of a "journalist".

In arriving at its decision to file this Comment, TPA has consulted with editors of its member newspapers, journalists employed by its member newspapers and independently employed across the State of Tennessee and has drawn on its own experience as an advocate for open government. We believe the record is clear that newspapers and their personnel have performed responsibly and in accordance with Rule 30 and will continue to do so under the revisions supported by TBA. For those reasons, TPA's support of the proposed revisions submitted by TBA is restated and reiterated.

Respectfully submitted, this 5TH day of August, 2015.

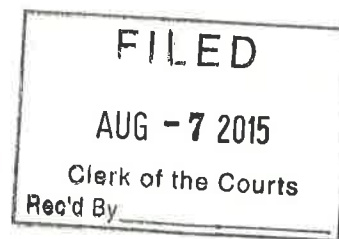
A handwritten signature in cursive script, reading "Richard L. Hollow", written in dark ink over a horizontal line.

Richard L. Hollow
HOLLOW & HOLLOW, LLC
P. O. Box 11166
Knoxville, TN 37939-1166
Ph. 865-769-1715

Attorney for Tennessee Press Association

Via First Class Mail:

Mr. James Hivener, Clerk
100 Supreme Court Building
401 7th Avenue North
Nashville, TN 37219-1407



July 31, 2015

RE: Amendment of Rule 30, Docket No. ADMIN2015-00451

Pursuant to this Court's Order of March 13, 2015 concerning proposed amendments to Rule 30, I am submitting the following comments on behalf of the Tennessee Association of Broadcasters ("TAB").

TAB is a voluntary association of radio and television broadcast stations located in Tennessee. TAB is organized and exists as a not for profit Tennessee corporation. Its purpose includes promoting a high standard of public service among Tennessee broadcast stations, fostering cooperation with governmental agencies in all matters pertaining to national defense and public welfare, and encouraging customs and practices in the best interest of the broadcasting industry and the public it serves. Pursuant to the federal license under which each broadcast station operates, broadcasters are legally obligated to serve the public interest.

TAB appreciates the Court's desire to update Rule 30, but believes the proposed amended rule would greatly restrict public access and public information about judicial proceedings in ways this Court may not have considered when it suggested its proposed amendment. TAB strongly encourages the Court to adopt the proposed rule submitted by the Tennessee Bar Association. TAB also adopts the reasoning and rationale for the Bar Association's proposed rule. The Bar Association has correctly noted that the focus of Rule 30 should be not on the technology or devices used to cover courtrooms, but rather on how those devices are utilized.

Current technology includes devices with many capabilities, some of which might be used for electronic coverage of courtroom proceedings. These same devices can also be used for little more than note taking in the courtroom, or in other words, electronic replacements for a pen and paper notebook. Rule 30 should not be amended in a way that restricts use of devices used for writing notes of what happens in the courtroom. Yet, such a restrictive limitation seems to necessarily follow from the Court's proposed amendment to Rule 30. TAB suspects that a restriction on note taking in courtrooms is not intended, which is why the Bar Association's focus on the use of the technology, and not the technology itself, is important.

Therefore, TAB urges the Court to adopt the amendments to Rule 30 that have been proposed by the Tennessee Bar Association.

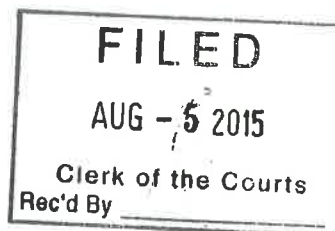
Sincerely,

Whit Adamson, TAB President



Via First Class Mail:

Mr. James Hivener, Clerk
100 Supreme Court Building
401 7th Avenue North
Nashville, TN 37219-1407



July 31, 2015

RE: Amendment of Rule 30, Docket No. ADMIN2015-00451

Pursuant to this Court's Order of March 13, 2015 concerning proposed amendments to Rule 30, I am submitting the following comments on behalf of WMC-TV.

WMC-TV is a federally licensed broadcast station located in Memphis, Tennessee. The stations purpose includes promoting a high standard of local content, including news and public service to our community of license. Pursuant to the federal license under which each broadcast station operates, this station is legally obligated to serve the public interest.

WMC-TV appreciates the Court's desire to update Rule 30, but believes the proposed amended rule would greatly restrict public access and public information about judicial proceedings in ways this Court may not have considered when it suggested its proposed amendment. WMC-TV strongly encourages the Court to adopt the proposed rule submitted by the Tennessee Bar Association. WMC-TV also adopts the reasoning and rationale for the Bar Association's proposed rule. The Bar Association has correctly noted that the focus of Rule 30 should be not on the technology or devices used to cover courtrooms, but rather on how those devices are utilized.

Current technology includes devices with many capabilities, some of which might be use for electronic coverage of courtroom proceedings. These same devices can also be used for little more than note taking in the courtroom, or in other words, electronic replacements for a pen and paper notebook. Rule 30 should not be amended in a way that restricts use of devices used for writing notes of what happens in the courtroom. Yet, such a restrictive limitation seems to necessarily follow from the Court's proposed amendment to Rule 30. WMC-TV suspects that a restriction on note taking in courtrooms is not intended, which is why the Bar Association's focus on the use of the technology, and not the technology itself, is important.

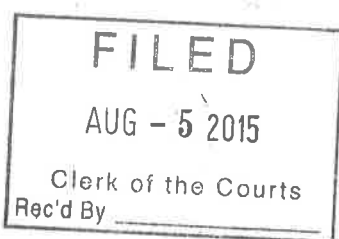
Therefore, WMC-TV urges the Court to adopt the amendments to Rule 30 that have been proposed by the Tennessee Bar Association.

Sincerely,


Tracey Rogers

WMC Action News 5

Vice President & General Manager



Via First Class Mail:

Mr. James Hivener, Clerk
100 Supreme Court Building
401 7th Avenue North
Nashville, TN 37219-1407
2015

Paul Freeman Tinkle, President
Thunderbolt Broadcasting
Martin, Tennessee

July 31,

RE: Amendment of Rule 30, Docket No. ADMIN2015-00451

Pursuant to this Court's Order of March 13, 2015 concerning proposed amendments to Rule 30, I am submitting the following comments on behalf of Thunderbolt Broadcasting and our radio stations WCMT-AM, WCMT-FM, WCDZ-FM, WQAK- FM and KYTN-FM with stations licensed to Martin, Union City, South Fulton and Dresden, Tennessee.

Thunderbolt radio stations serve our communities with a high standard of local content including news and public service to the communities we serve. We have two full time news departments and cover local meetings including county, city commission and other agencies and report community events to our listeners. We are legally obligated to serve the public interest.

Thunderbolt Broadcasting appreciates the Court's desire to update Rule 30, **but believes the proposed amended rule would greatly restrict public access and public information about judicial proceedings in ways this Court may not have considered when it suggested its proposed amendment. Thunderbolt Broadcasting strongly encourages the Court to adopt the proposed rule submitted by the Tennessee Bar Association.** In my judgment Thunderbolt believes the Tennessee Bar Association has correctly noted that the focus of Rule 30 should be not on the technology or devices used to cover courtrooms, but rather on how those devices are utilized.

Current technology includes devices with many capabilities, some of which might be used for electronic coverage of courtroom proceedings. Our local news departments cover court room trials, hearings, motions and other matters before the court with radio devices that have allowed us to be more efficient and timely in reporting court proceedings. These same devices can also be used for little more than note taking in the courtroom, or in other words, electronic replacements for a pen and paper notebook.

In my judgment **Rule 30 should not be amended in a way that restricts use of devices used for writing notes of what happens in the courtroom.** Yet, such a restrictive limitation seems to necessarily follow from the Court's proposed amendment to Rule 30.

Thunderbolt Broadcasting suspects that a restriction on note taking in courtrooms is not intended, which is why the Tennessee Bar Association's focus on the use of the technology, and not the technology itself, is important.

Thunderbolt Broadcasting urges the Court to adopt the amendments to Rule 30 that have been proposed by the Tennessee Bar Association. We believe the public interest can be better served in this manner.

Respectfully,



Paul Freeman Tinkle, President

Thunderbolt Broadcasting

PO Box 318

Martin, Tennessee 38237

Member: Tennessee Association of Broadcasters and the Tennessee Associated Press

FILED

AUG - 5 2015

Clerk of the Courts
Rec'd By _____

August 3, 2015

Via First Class Mail

Mr. James Hivener, Clerk
100 Supreme Court Building
401 7th Avenue North
Nashville, TN 37219-1407

RE: Amendment of Rule 30, Docket No. ADMIN2015-00451

Dear Mr. Hivener,

Pursuant to this Court's Order of March 13, 2015 concerning proposed amendments to Rule 30, I am submitting the following comments on behalf of Young Broadcasting of Knoxville, Inc. ("WATE")

WATE is a federally licensed broadcast station located in Knoxville, Tennessee. The station's purpose includes promoting a high standard of local content, including news and public service to our community of license. Pursuant to the federal license under which each broadcast station operates, this station is legally obligated to serve the public interest.

WATE appreciates the Court's desire to update Rule 30, but believes the proposed amended rule would greatly restrict public access and public information about judicial proceedings in ways this Court may not have considered when it suggested its proposed amendment. WATE strongly encourages the Court to adopt the proposed rule submitted by the Tennessee Bar Association. WATE also adopts the reasoning and rationale for the Bar Association's proposed rule. The Bar Association has correctly noted that the focus of Rule 30 should be not on the technology or devices used to cover courtrooms, but rather on how those devices are utilized.

Current technology includes devices with many capabilities, some of which might be used for electronic coverage of courtroom proceedings. These same devices can also be used for little more than note taking in the courtroom, or in other words, electronic replacements for a pen and paper notebook. Rule 30 should not be amended in a way that restricts use of devices used for writing notes of what happens in the courtroom. Yet, such a restrictive limitation seems to necessarily follow from the Court's proposed amendment to Rule 30. WATE suspects that a restriction on note taking in courtrooms is not intended, which is why the Bar Association's focus on the use of the technology, and not the technology itself, is important.

Therefore, WATE urges the Court to adopt the amendments to Rule 30 that have been proposed by the Tennessee Bar Association.

WATE-TV • WATE.COM

1306 BROADWAY NE • KNOXVILLE, TENNESSEE 37917



Sincerely,

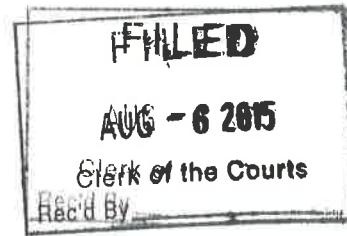


K. Dean Littleton, General Manager





July 31, 2015



Via First Class Mail

Mr. James Hivener, Clerk
100 Supreme Court Building
401 7th Avenue North
Nashville, TN 37219-1407

RE: Amendment of Rule 30, Docket No. ADMIN2015-00451

Dear Mr. Hivener,

Pursuant to this Court's Order of March 13, 2015 concerning proposed amendments to Rule 30, I am submitting the following comments on behalf of Young Broadcasting of Nashville, LLC ("WKRN")

WKRN is a federally licensed broadcast station located in Nashville, Tennessee. The station's purpose includes promoting a high standard of local content, including news and public service to our community of license. Pursuant to the federal license under which each broadcast station operates, this station is legally obligated to serve the public interest.

WKRN appreciates the Court's desire to update Rule 30, but believes the proposed amended rule would greatly restrict public access and public information about judicial proceedings in ways this Court may not have considered when it suggested its proposed amendment. WKRN strongly encourages the Court to adopt the proposed rule submitted by the Tennessee Bar Association. WKRN also adopts the reasoning and rationale for the Bar Association's proposed rule. The Bar Association has correctly noted that the focus of Rule 30 should be not on the technology or devices used to cover courtrooms, but rather on how those devices are utilized.

Current technology includes devices with many capabilities, some of which might be used for electronic coverage of courtroom proceedings. These same devices can also be used for little more than note taking in the courtroom, or in other words, electronic replacements for a pen and paper notebook. Rule 30 should not be amended in a way that restricts use of devices used for writing notes of what happens in the courtroom. Yet, such a restrictive limitation seems to necessarily follow from the Court's proposed amendment to Rule 30. WKRN suspects that a restriction on note taking in courtrooms is not intended, which is why the Bar Association's focus on the use of the technology, and not the technology itself, is important.

Therefore, WKRN urges the Court to adopt the amendments to Rule 30 that have been proposed by the Tennessee Bar Association.

Sincerely,

A handwritten signature in black ink, appearing to read "S. A. Watt", with a stylized flourish at the end.

Stephen A. Watt, General Manager

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

FILED
2015 JUL 30 PM 3:36
KNOXVILLE

IN RE: PETITION TO AMEND)
TENNESSEE SUPREME COURT) NO. ADM2015-00451
RULE 30)

COMMENT OF THE KNOXVILLE BAR ASSOCIATION

The Knoxville Bar Association (the "KBA"), through its Professionalism Committee and Board of Governors, has carefully considered the Petition to Amend Tennessee Supreme Court Rule 30.

The KBA sought the opinions of its members regarding media coverage during court proceedings. The Professionalism Committee of the KBA (the "Committee"), has a longstanding practice of evaluating proposed rule changes. Consistent with that practice, the Committee carefully considered these proposals. In this instance, the Professionalism Committee had the benefit of hearing from Richard Hollow who graciously agreed to present to the Committee the Petition and the reasons for the proposed revisions drafted by the Tennessee Bar Association. The Committee held an informative discussion and would like to thank Richard Hollow for his presentation.

After discussion, the Committee voted to recommend to the KBA Board of Governors (the "Board"), that the Board adopt the proposed Rule 30 amendments as approved by the Board of Governors of the Tennessee Bar Association but to recommend removing the words "Media personnel" from item K, and replace these words with "All individuals in attendance." The matter was thoroughly considered at the meeting of the KBA Board on June 24, 2015, and the proposed amendment to Supreme Court Rule 30 was approved as recommended.

Respectfully submitted this 30th day of July, 2015.

KNOXVILLE BAR ASSOCIATION



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Administrative Office of the Courts
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Mario Ramos PLLC
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Nashville, TN 37203

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Williamson County Bar Association
Neil Campbell Attorney at Law
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Marshall County Bar Association
Davis Law Firm
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Lewisburg, TN 37091

William Lawson
President
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ORIGINAL

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

2015 JUL 29 AM 10: 24

APPELLATE COURT CLERK
NASHVILLE

IN RE:

AMENDMENT OF RULE 30,
RULES OF THE
TENNESSEE SUPREME COURT

No. ADMIN2015-00451

COMMENT OF TENNESSEE COALITION FOR OPEN GOVERNMENT

Tennessee Coalition for Open Government, Inc. ("TCOG") submits the following comment concerning the proposed amendments to Tennessee Supreme Court Rule 30 and strongly supporting this Court's adoption of the proposed revision of Rule 30 submitted to this Court by the Tennessee Bar Association in its recent comment to this Court:

The Tennessee Coalition for Open Government, Inc. ("TCOG") is the only non-partisan Section 501(c)(3) organization in Tennessee whose sole mission is to protect and promote citizen access to government information and public meetings. Included within TCOG's mission is preservation and enhancement of access to Tennessee courtrooms and judicial proceedings. TCOG operates as an alliance of citizens, media organizations, and good government groups. TCOG's mission rests on the belief that access to government information is crucial in informed citizen participation in a democratic society. Since its inception in 2003, TCOG has conducted research into open government issues, providing information about access issues to citizens, journalists, lawmakers and government officials. TCOG participates as a member of the National Freedom of Information Coalition, an alliance of similar open government groups in all 50 states who share information and programs with the goal of improving citizen access and education at all levels. The TCOG Board of Directors consists of 22 board members including

individual citizens, members of the Tennessee Press Association, the Tennessee Association of Broadcasters, the Associated Press, Tennessee chapters of the Society of Professional Journalists, good government groups including the Tennessee chapters of the League of Women Voters and Common Cause, and attorneys and law firms emphasizing First Amendment practice. Members of the Board of TCOG serve without compensation as a public service to the citizens of Tennessee.

TCOG has extensively studied this Court's proposed amendments to Tennessee Supreme Court Rule 30, this Court's Rule governing the presence of cameras and audio recorders in the courtroom. We have corresponded and spoken with representatives of media organizations, media outlets, editor, broadcasters, and journalists of all kinds, as well as citizens who care about transparency and openness of Tennessee's judicial system. These discussions have included those interested in access to Tennessee courts from Memphis to Mountain City. Among those involved in these discussions are Tennesseans who daily observe and report on court proceedings across the State.

Two common threads have run through all these discussions. First, they reflect a deep respect and love for Tennessee's courts and their tradition of openness – a tradition longer than that in our federal courts and more fundamentally effective. Tennesseans know more about their courts and what goes on in them because of this tradition of openness. Those with whom TCOG discussed Rule 30 believe that, without a tradition of good reporting on Tennessee judicial proceedings and how Tennessee judges and court handle them, the public debate and discussion concerning judicial elections at all levels in 2014 would have been far less informed and far less productive.

Second, these discussions revealed grave concern that the adoption of the Court's

proposed revision to Rule 30, as published with the Court's March 13, 2015, Order, would be a striking backward step away from Tennessee tradition of judicial openness. Many Tennessee journalists who have studied the Court's proposed revision are convinced that, were this Court to adopt its original proposed language in the form published in the Court's March 15, 2015, Order, ordinary working journalists would no longer be able to do their job without new, wholly impractical restrictions. TCOG believes these journalists are right, and believes that these concerns must be accommodated in any revision to Rule 30.

Among TCOG's specific concern are that this Court's originally published revision would require express approval, based on a journalist's application two days in advance of any courtroom reporting, for the use of any electronic device in a courtroom, regardless of the intended purpose or actual use of the device. No reporter of any kind – not an individual blogger, or a print newspaper reporter, or a TV reporter or producer, or a radio journalist, or a journalist writing a book about a trial – could bring into a courtroom, or use in a courtroom, any smartphone, tablet computer, or laptop computer, for any purpose whatsoever, without advance approval two days in advance. Absent this two-day-in-advance approval, no reporter could use her laptop to take notes, or her iPad to write a story on the proceeding. Without advance approval, no reporter could use her iPhone to communicate with her editor during a hearing, no matter how silently she did so (such as by texting). And if reporters cannot take their phones into courtrooms, this necessarily means they will not have them in the courthouse, thereby prohibiting them from using their phones even though everyone else (such as lawyers) will have their phones in the courthouse to use during breaks.

While two-day advance approval has worked reasonably well for TV camera access to courts under present Rule 30, journalists have told TCOG that media organizations often do not

become aware of newsworthy proceedings in time to make such applications and, when they do, a rule that forces a media organization to decide who will cover a hearing two days in advance and make application for them (and their particular devices) to be approved for coverage two days in advance, is simply impractical and unreasonably burdensome, to no good end.

Journalist and media organizations also have questioned the need for and purpose of such a broad reach of a revised Rule 30. Anyone who has covered or been present for a courtroom proceeding fully understands the need for decorum and order. At a most basic level, in order to a court's work to be done, any meaningful noise or distraction from members of the public and press can and should be controlled by the court. But journalists and media organizations know that the technology they use every day to do their work within courtrooms can be (and should be) used silently and without any distraction whatsoever to trial participants. Years of experience in Tennessee courtrooms, where such devices have now been successfully used, mostly without incident or disruption, confirm this.

Indeed, because this advance approval concept was written originally with TV cameras in mind, and included limitations on the number of cameras in a hearing and provisions for pooling, and because these provisions have not been tailored to cover this sweeping new scope of the definition of "electronic devices," any trial court would be left with no legal standard whatsoever to decide whether to permit a news reporter to bring her laptop into the courtroom to take notes or write her story or email her editor. What standard would a trial court use in this situation? Would it fit within *any* constitutional standard for a court to deny a reporter the ability to use a laptop (assuming its use was silent), but to permit the use of a pencil and paper, to take notes or write her story? Even if such distinctions were constitutional, on what grounds should a trial court be saddled with this responsibility? Regardless, the proposed revision gives trial judges no

help in figuring out when to permit the use of such devices. This rule-without-a-standard would be a backward step in public access to Tennessee courts.

On this basis, TCOG believes that that Rule 30 needs to be updated to reflect that the tools that media can now use to record or broadcast video or audio in a courtroom have become dramatically smaller and dramatically more numerous. But TCOG also believes that because these new devices with video and audio capability are the same devices that journalists use every day to do their work of courthouse reporting, accommodation should and must be made to allow journalists to use these tools in an appropriate way, while simultaneously prohibiting their use to record or broadcast video or audio from a courtroom without the court approval traditionally required by Rule 30.

TCOG wholeheartedly agrees with the Court's obvious concern that Rule 30 must be updated. Adopted in 1996, before most Tennesseans used the Internet and before cameras and recording devices were as compact and ubiquitous as they are today, Rule 30 has worked well in carrying forward Tennessee's tradition of open courts into an era when video and audio recording and reporting on courtroom proceedings has become more prevalent. In 2015, however, when virtually every citizen and working journalist has at least one device as capable as a 1990s video camera of recording video or audio for broadcast, media and technology have changed dramatically. This Court must update Rule 30 to keep pace with these changes in order to maintain Tennessee tradition of open courts, as well as to maintain in Tennessee courts the authority to maintain decorum, order, and fair trial rights amidst a new media and technology environment.

TCOG believes that the line the Court should draw in updating Rule 30 should not be a line based on the identity or capability of devices (a standard that would be held hostage to the

latest developments and changes in technology (will watches be covered by the Rule in the next year?), but should instead be a line based on the use to which any device of any kind is put. The Rule should concern itself with conduct of those present in the courtroom, not the technology they carry.

For all these reasons, TCOG endorses and supports the proposed revision of Rule 30 recently proposed by the Tennessee Bar Association in its filed comment with this Court. The TBA proposal strikes an appropriate balance between allowing journalists to use the tools they need to continue their reporting on courts, while providing Tennessee courts the tool they need to regulate fully the core concern of Rule 30 – the recording and broadcast of video and audio of Tennessee court proceedings.


The TBA proposal recognizes that Rule 30 must be updated to recognize that a courtroom proceeding could well be recorded today for broadcast on an iPhone that a reporter carried in her purse to the courthouse. The TBA proposal also confirms that there remains a need to regulate (including requiring advance approval) of video or audio recording of courtroom proceedings. At the same time, the TBA proposal expressly removes from this requirement and regulation everyday reporting activity carried out with today's new technology tools.

In addition to better, more focused definitions of “electronic devices” and “coverage” that help draw this line, the TBA proposal also provides a better standard for court review of media requests filed within two days of a hearing at which video or audio coverage is sought. The TBA proposal also clarifies, using the longstanding language of the Tennessee Reporter's Shield Law, just who is a “journalist” covered by the Rule. The TBA proposal also includes an informative Preamble that states clearly the background and purpose of the Rule.

TCOG thus strongly supports the TBA proposed revision of Tennessee Supreme Court

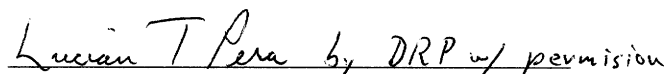
Rule 30, and urges this Court to adopt it as a means to update the Rule and preserve Tennessee's tradition of open courts.

Respectfully submitted,



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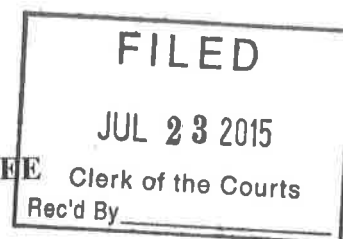
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IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE



IN RE:)	
)	
AMENDMENT OF RULE 30,)	No. ADMIN2015-00451
RULES OF THE)	
TENNESSEE SUPREME COURT)	

COMMENT OF TENNESSEE BAR ASSOCIATION

The Tennessee Bar Association (“TBA”), in response to this Court’s March 13, 2015, Order soliciting comments concerning its published proposed revision to Tennessee Supreme Court Rule 30, urges the Court to adopt as a replacement for current Rule 30 the TBA’s proposed draft revision of Rule 30 attached as Exhibit A. (Exhibit A shows a version of the TBA’s proposed Rule 30 that reflects changes to and differences from the Court’s published proposed revision of Rule 30. Exhibit B shows a clean version of the TBA’s proposed new Rule 30.) In further support of the adoption of the TBA’s proposed revision, the TBA submits as follows:

BACKGROUND AND OVERVIEW

Tennessee courts have allowed cameras in court for over fifty years. This right generally has been argued to exist under the First Amendment’s free speech guarantees and the Sixth Amendment’s guarantee of public trials, as well as the Tennessee Constitution’s Law of the Land Clause found at Art. 1, Section 8, the Open Courts Clause of Art. 1, Section 17, and the Free Press guarantees of Art. 1, Section 19.

For most of the last two decades, this Court’s Rule 30 has carried forward this Tennessee tradition and provided a stable and workable framework for cameras in Tennessee courtrooms. Rule 30 was first enacted by this Court in 1996, and the first case construing the Rule came that

same year with *State v. Morrow*, No. 02C01-9601-CC-00022, 1996 WL 170679 (Tenn. Crim. App. April 12, 1996), in which this Court found that Rule 30 “creates a presumption in favor of in-court media coverage, including the presence of television camera, in accordance with the procedures set forth in the rule.”

For the last nineteen years, Rule 30 has successfully permitted Tennessee citizens to have fuller access to video and audio coverage of what goes on in their courts, with few significant problems and many successes. In the TBA’s view, with rare exceptions, Rule 30 has worked well. The media have been diligent in observing its restrictions and in using it to the public’s benefit in reporting on judicial proceedings; courts have been able, with little difficulty, to apply the standards of the Rule; and parties and lawyers have been able to voice their concerns about video and audio coverage and to have those concerns addressed by the courts.

In those two decades, however, the media environment and technology used to cover Tennessee courts have changed dramatically. In 1996, recording and transmitting video of a court proceeding usually required expensive and (by today’s standards) bulky equipment. Today, the very same functions can be performed by a smartphone, tablet computer, or laptop of the kind that virtually any journalist carries in her pocket or briefcase. As importantly, most journalists – indeed, most members of the public – today routinely carry just such devices with them every day. These new devices can often not only record, but transmit, video, audio, and text, from almost any remote location, to anywhere in the world, almost instantly. Thus, while the basic framework of Rule 30 remains valid, as the Court has noted, it is time for the Rule to be updated so that courts across Tennessee have the tools to address today’s technology in today’s courtrooms. The TBA applauds the Court’s initiative to update Rule 30.

With the help of its recently-organized Communication Law Section, the TBA has

closely reviewed the Court's proposed revision of Rule 30 and attaches a proposed version of Rule 30 as Exhibit A to this comment. Respectfully, the TBA believes that its attached draft better accomplishes the goal of updating Rule 30 to accommodate current technology. The TBA also believes that its proposed revision avoids the negative effect of some parts of the Court's published proposal that have received significant negative comment, particularly by practicing journalists who cover Tennessee courts. The TBA has discussed the Court's proposed revisions with numerous Tennessee journalists and media organizations and their counsel and explored their concerns in depth. The TBA submits that its proposed draft reasonably addresses these concerns, while still providing a strong framework for Tennessee courts to reasonably regulate cameras in the courts.

The most important change in the Court's proposed revision was a reasonable attempt to sweep within its coverage all the varied devices on which video or audio of courtroom proceedings can now be recorded in or broadcast from a courtroom, including smartphones, tablet computers, and laptop computers. For this reason, the Court's proposed new definition of "electronic device" is quite broad:

(6) **"Electronic Device"** means any device capable of capturing, recording, and/or transmitting video images, still images, or audio of a court proceeding and any device capable of transmitting real-time textual descriptions of a court proceeding. Electronic devices include, without limitation: film, digital, video, and any other type of cameras, cellular telephones, tape recorders, digital voice recorders, and any other type of audio recorders; laptop computers, electronic tablets, and any other similar technological device with the ability to capture, record and/or transmit video or still images, audio, text, or other electronic communication data.

This definition includes virtually every "smartphone" or other device that has the ability to take a photograph, record a video, or record audio.

The Court's proposed definition of the term "coverage" would also extend the reach of the Rule by including the media's use of an electronic device to post information on a website or

send email or text messages from inside a courtroom during a court proceeding, regardless of how silently and discreetly this is done:

(1) **“Coverage”** means any recording, broadcasting, transmitting, or webcasting of a court proceeding by the media using television, radio, photographic, or recording equipment, or any other electronic device. “Coverage” also means media personnel’s posting on an internet website, communicating via social media, text messaging, or otherwise communicating via an electronic device about a court proceeding from inside the courtroom while court is in session. This definition of “coverage” is subject to the prohibitions listed in section C.

This sweeping proposed breadth of the Court’s proposed revisions has led, however, to many concerns on the part of working journalists that the Court’s proposed language would enact a new and unintended ban on the use of such devices for their ordinary work covering courtrooms, rather than merely regulating video and audio coverage of courts. Specifically, the Court’s proposed language could easily be interpreted to require that any journalist who wanted to use their smartphone, tablet, or laptop to take notes or draft a story about a trial or hearing they were attending, or email those notes or that draft story to their editor, would be required to get specific approval, two days in advance, in order to use many current electronic devices to do so. This would be true under the Court’s proposed revisions regardless of whether these uses of electronic devices were perfectly silent and non-distracting to others in the courtroom. In the TBA’s view, this type of requirement will often be unworkable as a practical matter (many journalists do not know two days in advance what courtroom proceedings they will be covering). It is also unnecessary to accomplish the stated purposes of Rule 30’s regulation of cameras in the courtroom. Indeed, some journalists have correctly pointed out that such a rule would unfairly – and perhaps unconstitutionally – discriminate between journalists based on whether they worked with a pencil and paper or a laptop.

These concerns are legitimate, and the TBA has no doubt that no such result was intended

by the drafters of the Court's proposed language. Today, in courtrooms all across Tennessee, lawyers (and judges) use all manner of new devices in the courtroom to do their work, and so do journalists. These uses of new technology and devices are routinely accomplished silently and without any distraction to anyone. And, just as use by lawyers (and judges) of these devices in the courtroom can and does enhance their productivity and accuracy, among other goals, there can be no doubt that the use by journalists of these devices allows them to work more efficiently, while also almost certainly increasing the accuracy and quality of their reporting of courtroom proceedings.

The TBA believes that the Court's valid interests in preserving decorum and good order in Tennessee courtrooms, and in fairly and thoroughly regulating the recording and transmission of video and audio of court proceedings, can be fully accomplished while more narrowly regulating the use of new technology. That is what the TBA's attached draft accomplishes.

In addition to addressing this concern, the TBA's draft also proposes other somewhat different approaches, discussed below, that the TBA believes better update Rule 30 to provide a framework for regulating cameras in Tennessee courts in the modern media and technology environment.

PARTICULAR SECTIONS OF TBA DRAFT RULE

The following is a brief review of a number of the more important provisions in the TBA's attached proposed revisions to Rule 30:

1. **Preamble.** A proposed Preamble explains that Rule 30 is a part of the tradition of open courts in Tennessee and throughout the United States. Several existing rules of the Supreme Court (Rules 7, 8, 9, 10, 38, 41) have a Preamble. The TBA believes that the Rule is improved by a clear statement of its purpose and the principles underlying the Rule.

2. **Rule 30A(2)**. The minor revision of the second sentence clarifies the burden and the standard for waiver of the two-day advance-approval requirement.

3. **Rule 30A(3)**. The proposed addition of the words “if practicable” establishes a standard for use by a court in deciding whether to waive the Clerk’s notification of the attorneys of record in a case of a request for media coverage.

4. **Rule 30A(4)**. This proposed new language is intended to emphasize that Rule 30 does not limit the use of an electronic device to write about a court proceeding while in the courtroom, so long as this is done silently and does not create a distraction. The transmission of data communications in the form of text only would be allowed without prior authorization from the court.

5. **Rule 30B(1)**. This proposed change limits the definition of “coverage” to the recording or transmitting of any video or audio of a court proceeding from within the courtroom. The TBA believes that limiting the definition of “coverage” in this way is consistent with the original purpose and spirit of Rule 30. Other forms of electronic communication from a courtroom, where performed silently and without distraction to the proceeding or its participants, pose no risk to the decorum and order within a courtroom that Rule 30 is intended to preserve.

6. **Rule 30B(2)**. The definition of “media” would be revised to include “persons who are independently engaged in gathering information for publication or broadcast,” a formulation borrowed from the Tennessee statute establishing a journalist’s limited privilege. *See* Tenn. Code Ann. § 24-1-208

7. **Rule 30B(3)**. This proposed change would eliminate from the scope of Rule 30 the words “any activity in the building in which the judicial proceeding is being held.” Rule 30 has not previously been extended outside the courtroom, and the TBA sees no need for any such

extension. If the proposed change is not made, this language could be interpreted to bring within the scope of Rule 30 a press conference being held on the first floor or in the hallway of a courthouse.

8. **Rule 30B(6)**. This proposed change limits the electronic devices subject to the requirements of Rule 30 to those that are intended to be used to capture, record, and transmit video, audio, or still images of a court proceeding. This reformulation would exclude from regulation under Rule 30 electronic devices used for the purpose of transmitting text-only message or email or posting messages to a website. Extending the reach of Rule 30 to include such devices is, in the TBA's view, unnecessary to accomplish the purposes of Rule 30.

9. **Rule 30C(5)**. The proposed change conforms the language of the Rule to other Tennessee rules concerning juvenile proceedings.

CONCLUSION

For the foregoing reasons, the TBA urges the Court to adopt as a replacement for current Tennessee Supreme Court Rule 30 the TBA's proposed revision of Rule 30 attached as Rule 30.


Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing has been served upon the individuals and organizations identified in Exhibit "C" by regular U.S. Mail, postage prepaid within seven (7) days of filing with the Court.



EXHIBIT A

**Proposed Revisions to
Tennessee Supreme Court Proposal for Changes to Tenn. Sup. Ct. R. 30
(as approved by the TBA House of Delegates and Board of Governors)**

[As proposed by the Tennessee Supreme Court, Tenn. Sup. Ct. R. 30 would be amended as indicated below by underlining (new text) and ~~overstriking~~ (deleted text).

The TBA's proposed additions and changes are shown in green.]

Rule 30. Media Guidelines.

Preamble

The Tennessee and United States Constitutions, as well as Tennessee common law, grant to the public and the media the right to attend and view proceedings in Tennessee courts, subject to certain limited restrictions, and place the burden of proof upon any party seeking closure. This right of access is critical to preserving the trust of the public in Tennessee's judicial system. This Rule is intended to provide a framework within which Tennessee courts shall maintain this tradition of open courts.

A. Media Access.

(1) **Coverage Generally.** Media coverage of public judicial proceedings in the courts of this State shall be allowed in accordance with the provisions of this rule. The coverage shall be subject, at all times, to the authority of the presiding judge to: (i) control the conduct of the proceedings before the court; (ii) maintain decorum and prevent distractions; (iii) guarantee the safety of any party, witness, or juror; and (iv) ensure the fair and impartial administration of justice in the pending cause.

(2) **Requests for Media Coverage.** Requests by representatives of the media for such coverage must be made in writing to the presiding judge not less than two (2) business days before the proceeding is scheduled to begin. For good cause shown, ~~The presiding judge may waive the two-day requirement at his or her discretion.~~

(3) **Notification of Request.** Notification that the media has requested such coverage shall, if practicable, be provided by the Clerk of the particular court to the attorneys of record in the case. Such notification may be waived by the judge at the clerk's request if the request is made for media coverage of all or part of a docket. If the judge waives notification, the clerk shall post a notice with the docket in a conspicuous place outside the courtroom. The notice must state that the proceedings will be covered by the media, and that any person may request a continuance when the docket is called. Such continuance shall be granted only if the person can show that he or she was prejudiced by the lack of notice, and that there is good cause to refuse, limit, terminate or temporarily suspend media coverage pursuant to section D(2).

(4) **Scope of Rule.** This Rule is not intended to limit or regulate the right of any member

of the public or the media to observe, write about, comment upon, or report upon any court proceeding while present in the courtroom during a court proceeding, so long as such conduct does not interfere with the court proceeding by threatening the decorum of the proceeding or creating a distraction in the proceeding. Members of the public and the media may use electronic devices in the courtroom for the purpose of writing, taking notes, and transmitting or receiving data communications in the form of text only, without obtaining prior authorization from the court.

B. Definitions.

(1) **“Coverage”** means any ~~recording or broadcasting~~ recording, broadcasting, transmitting, or webcasting of a court proceeding by the media using television, radio, photographic, or recording equipment, or any other electronic device. ~~“Coverage” also means media personnel’s posting on an internet website, communicating via social media, text messaging, or otherwise communicating via an electronic device about a court proceeding from inside the courtroom while court is in session. This definition of “coverage” is subject to the prohibitions listed in section C.~~ **“Coverage” does not mean an activity that does not include the recording or transmitting of any video or audio of a court proceeding within a courtroom.**

(2) **“Media”** means legitimate news gathering and reporting agencies and their representatives whose function is to inform the public, or persons engaged in the preparation of educational films or recordings or documentaries. **“Media” shall include persons who are independently engaged in gathering information for publication or broadcast.**

(3) **“Proceeding”** means any trial, hearing, motion, argument on appeal, or other matter held in open court that the public is entitled to attend. For the purposes of section C of this rule, a “proceeding” includes ~~any activity in the building in which the judicial proceeding is being held or~~ any official duty performed in any location as part of the judicial proceeding.

(4) **“Presiding Judge”** means the judge, justice, master, referee or other judicial officer who is scheduled to preside, or is presiding, over the proceedings.

(5) **“Minor”** means any person under eighteen (18) years of age.

(6) **“Electronic Device”** means any device ~~intended to be used in a court proceeding to capture, record, or transmit~~ **capable of capturing, recording, and/or transmitting** video images, still images, or audio of a court proceeding, ~~and any capable of transmitting real time textual descriptions of a court proceeding.~~ Electronic devices include, without limitation, film, digital, video, and any other type of cameras; cellular telephones; tape recorders, digital voice recorders, and any other type of audio recorders; laptop computers; electronic tablets; and any other similar technological device with the ability to capture, record and/or transmit video or still images, ~~or audio, text, or other electronic communication data.~~

C. Prohibitions.

(1) **Minor Participants.** Media coverage of a witness, party, or victim who is a minor is

prohibited in any judicial proceeding, except when a minor is being tried for a criminal offense as an adult.

(2) **Jury Selection.** Media coverage of jury selection is prohibited.

(3) **Jurors.** Media coverage of jurors during the judicial proceeding is also prohibited.

(4) **Closed Proceedings.** Media coverage of proceedings which are otherwise closed to the public by law is prohibited.

(5) **Juvenile Court Proceedings.** In juvenile court proceedings, if the court receives a request for media coverage, the court will notify the parties and their counsel of the request, and prior to the beginning of the proceedings, the court will advise the juvenile ~~accused~~, the parties, and the witnesses of their personal right to object, and that if consent is given, it must be in writing. Objections by a witness will suspend media coverage as to that person only during the proceeding, whereas objections by the juvenile ~~accused~~ in a delinquency proceeding ~~criminal~~ ~~ease~~ or any party to a juvenile proceeding ~~civil action~~ will prohibit media coverage of the entire proceeding.

(6) **Conferences of Counsel.** There shall be no audio pickup, recording, broadcast, or video closeup of conferences, which occur in a court facility, between attorneys and their clients, between co-counsel of a client, between counsel and the presiding judge held at the bench or in chambers, or between judges in an appellate proceeding.

D. Limitations.

(1) **Discretion of Presiding Judge.** The presiding judge has the discretion to refuse, limit, terminate, or temporarily suspend, media coverage of an entire case or portions thereof, in order to: (i) control the conduct of the proceedings before the court; (ii) maintain decorum and prevent distractions; (iii) guarantee the safety of any party, witness, or juror; and (iv) ensure the fair administration of justice in the pending cause. Such exercise of the presiding judge's discretion shall be made following the procedures established in section D(2).

(2) **Evidentiary Hearing.** Before denying, limiting, suspending, or terminating media coverage, the presiding judge shall hold an evidentiary hearing, if such a hearing will not delay or disrupt the judicial proceeding. In the event that an evidentiary hearing is not possible, affidavits may be used. The burden of proof shall be on the party seeking limits on media coverage. If there is no opposition to media coverage, the presiding judge may consider matters that are properly the subject of judicial notice. Media requesting coverage shall be allowed to present proof, either at the evidentiary hearing or by affidavit. Any finding that media coverage should be denied, limited, suspended or terminated must be supported by substantial evidence that at least one of the four interests in section D(1) is involved, and that such denial, limitation, suspension, or termination is necessary to adequately reach an accommodation of such interest. The presiding judge shall enter written findings of fact detailing the substantial evidence required to support his or her order.

E. Appellate Review. Appellate review of a presiding judge's decision to terminate, suspend, limit, or exclude media coverage shall be in accordance with Rule 10 of the Tennessee Rules of Appellate Procedure.

F. Equipment and Personnel.

(1) **Limitations.** ~~At least one, but no~~ No more than two television cameras with one ~~operator~~ photographer each will be permitted in any judicial proceeding. ~~two still~~ No more than two non-television photographers using not more than two cameras or other electronic devices each, and one audio system for radio broadcast purposes, will be permitted in any judicial proceeding. The use of any electronic device for other coverage of a proceeding is limited to two devices per media representative.

(2) **Pooling Arrangements.** When more than one request for media coverage is made, the media shall select a representative to serve as a liaison and be responsible for arranging "pooling" among the media that may be required by these limitations on equipment and personnel. The identity of the person selected, including name, business address, phone and fax number, shall be filed with the clerk of the court in which the proceeding is to be held. Pooling arrangements shall be reached when the court is not in session and shall be the sole responsibility of the media without calling upon the presiding judge to mediate any dispute as to the appropriate media representative or equipment authorized to cover a particular proceeding. Such pooling arrangements shall include the designation of pool operators, procedures for cost sharing, access to and dissemination of material, and selection of a pool representative if appropriate. In the absence of advance media agreement on disputed equipment or personnel issues, the presiding judge shall exclude all contesting media personnel from a proceeding.

(3) **Personal Recorders.** Media personnel may use hand-held ~~cassette-tape~~ audio recorders that are no more sensitive than the human ear without complying with section A(2) of this rule. Such recorders are to be used for the making of sound recordings as personal notes of the proceedings, and shall not be used for any other purpose, including broadcast or other audio transmission. Usage shall not be obtrusive or distracting, and no change of tape or other electronic storage medium shall be made during court sessions.

(4) **~~Print Media~~ Other Coverage.** This rule does not govern the coverage of a proceeding by a news reporter or other person who is not using a camera, audio ~~or electronic~~ equipment, or other electronic device.

G. ~~Sound and Light~~ Equipment Criteria.

(1) **Distractions.** Only television, photographic and audio equipment and other electronic devices ~~which does~~ that do not produce distracting sound or light shall be employed to cover proceedings in a court facility. Signal lights or devices to show when equipment is operating shall not be visible. Moving lights, flash attachments, or sudden light changes shall not be used.

(2) **Courtroom Light Source.** If possible, lighting for all purposes shall be accomplished from existing court facility light sources. If no technically suitable lighting exists in the court

facility, modifications and additions may be made in light sources existing in the facility, provided such modifications and additions are unobtrusive, located in places designated in advance of any proceeding by the presiding judge, and without public expense.

(3) **Audio Pickup.** Audio pickup for all purposes shall be accomplished from existing audio systems present in the court facility or from ~~a television camera's~~ an electronic device's built-in microphone. If no technically suitable audio system exists in the court facility, microphones and related wiring essential for media purposes shall be unobtrusive and shall be located in places designated in advance of any proceeding by the presiding judge.

(4) **Technical Difficulties.** Court proceedings shall not be interrupted by media personnel because of a technical or equipment problem. If any problem occurs, that piece of equipment shall be turned off while the proceeding is in session. No attempt shall be made to correct the technical or equipment problem until the proceeding is in recess or has concluded.

H. Location of Equipment and Conduct of Media Personnel.

(1) **Location of Equipment and Personnel.** The presiding judge shall designate the location in the courtroom for media equipment and operators to permit reasonable coverage without disruption of proceedings.

(2) **Alterations.** No permanent installation shall be made nor shall any court facility be altered, unless approved in advance by the presiding judge. Expenses for alterations shall be borne by the media.

(3) **Movement During Proceedings.** During proceedings, operating personnel shall not move about nor make any adjustment or change of any equipment or electronic devices ~~which~~ that disrupts or distracts from the proceeding. Media broadcast, photographic or audio equipment shall not be placed in or removed from the court facility except prior to commencement or after adjournment of proceedings each day, or during a recess in the proceeding.

(4) **Conduct of Media Personnel.** Media personnel assigned to cover a judicial proceeding shall attire and deport themselves in such a way that will not detract from the proceeding.

I. Impermissible Use of Media Material. None of the film, ~~videotape, still photographs,~~ ~~or~~ video or still images, audio recordings, or other electronic coverage of proceedings under this rule shall be admissible as evidence in the proceeding out of which it arose, any proceedings subsequent and collateral thereto, or upon any retrial or appeal of such proceeding.

J. Ceremonial Proceedings. This rule shall not limit media coverage of investiture, ceremonial, or nonjudicial proceedings conducted in court facilities under such terms and conditions as may be established by prior consent of the presiding judge.

K. Compliance. Media personnel who fail to comply with this rule shall be subject to an appropriate sanction as determined by the presiding judge.

EXHIBIT B

Proposed New Tenn. Sup. Ct. R. 30
(as proposed by the Tennessee Bar Association)

Rule 30. Media Guidelines.

Preamble

The Tennessee and United States Constitutions, as well as Tennessee common law, grant to the public and the media the right to attend and view proceedings in Tennessee courts, subject to certain limited restrictions, and place the burden of proof upon any party seeking closure. This right of access is critical to preserving the trust of the public in Tennessee's judicial system. This Rule is intended to provide a framework within which Tennessee courts shall maintain this tradition of open courts.

A. Media Access.

(1) **Coverage Generally.** Media coverage of public judicial proceedings in the courts of this State shall be allowed in accordance with the provisions of this rule. The coverage shall be subject, at all times, to the authority of the presiding judge to: (i) control the conduct of the proceedings before the court; (ii) maintain decorum and prevent distractions; (iii) guarantee the safety of any party, witness, or juror; and (iv) ensure the fair and impartial administration of justice in the pending cause.

(2) **Requests for Media Coverage.** Requests by representatives of the media for such coverage must be made in writing to the presiding judge not less than two (2) business days before the proceeding is scheduled to begin. For good cause shown, the presiding judge may waive the two-day requirement.

(3) **Notification of Request.** Notification that the media has requested such coverage shall, if practicable, be provided by the clerk of the particular court to the attorneys of record in the case. Such notification may be waived by the judge at the clerk's request if the request is made for media coverage of all or part of a docket. If the judge waives notification, the clerk shall post a notice with the docket in a conspicuous place outside the courtroom. The notice must state that the proceedings will be covered by the media, and that any person may request a continuance when the docket is called. Such continuance shall be granted only if the person can show that he or she was prejudiced by the lack of notice, and that there is good cause to refuse, limit, terminate or temporarily suspend media coverage pursuant to section D(2).

(4) **Scope of Rule.** This Rule is not intended to limit or regulate the right of any member of the public or the media to observe, write about, comment upon, or report upon any court proceeding while present in the courtroom during a court proceeding, so long as such conduct does not interfere with the court proceeding by threatening the decorum of the proceeding or creating a distraction in the proceeding. Members of the public and the media may use electronic devices in the courtroom for the purpose of writing, taking notes, and transmitting or receiving

data communications in the form of text only, without obtaining prior authorization from the court.

B. Definitions.

(1) **“Coverage”** means any recording, broadcasting, transmitting, or webcasting of a court proceeding by the media using television, radio, photographic, or recording equipment, or any other electronic device. “Coverage” does not mean an activity that does not include the recording or transmitting of any video or audio of a court proceeding within a courtroom.

(2) **“Media”** means legitimate news gathering and reporting agencies and their representatives whose function is to inform the public, or persons engaged in the preparation of educational films or recordings or documentaries. “Media” shall include persons who are independently engaged in gathering information for publication or broadcast.

(3) **“Proceeding”** means any trial, hearing, motion, argument on appeal, or other matter held in open court that the public is entitled to attend. For the purposes of section C of this rule, a “proceeding” includes any official duty performed in any location as part of the judicial proceeding.

(4) **“Presiding Judge”** means the judge, justice, master, referee or other judicial officer who is scheduled to preside, or is presiding, over the proceedings.

(5) **“Minor”** means any person under eighteen (18) years of age.

(6) **“Electronic Device”** means any device intended to be used in a court proceeding to capture, record, or transmit video images, still images, or audio of a court proceeding. Electronic devices include, without limitation, film, digital, video, and any other type of cameras; cellular telephones; tape recorders, digital voice recorders, and any other type of audio recorders; laptop computers; electronic tablets; and any other similar technological device with the ability to capture, record and/or transmit video or still images, or audio.

C. Prohibitions.

(1) **Minor Participants.** Media coverage of a witness, party, or victim who is a minor is prohibited in any judicial proceeding, except when a minor is being tried for a criminal offense as an adult.

(2) **Jury Selection.** Media coverage of jury selection is prohibited.

(3) **Jurors.** Media coverage of jurors during the judicial proceeding is also prohibited.

(4) **Closed Proceedings.** Media coverage of proceedings which are otherwise closed to the public by law is prohibited.

(5) **Juvenile Court Proceedings.** In juvenile court proceedings, if the court receives a

request for media coverage, the court will notify the parties and their counsel of the request, and prior to the beginning of the proceedings, the court will advise the juvenile, the parties, and the witnesses of their personal right to object, and that if consent is given, it must be in writing. Objections by a witness will suspend media coverage as to that person only during the proceeding, whereas objections by the juvenile in a delinquency proceeding or any party to a juvenile proceeding will prohibit media coverage of the entire proceeding.

(6) **Conferences of Counsel.** There shall be no audio pickup, recording, broadcast, or video closeup of conferences, which occur in a court facility, between attorneys and their clients, between co-counsel of a client, between counsel and the presiding judge held at the bench or in chambers, or between judges in an appellate proceeding.

D. Limitations.

(1) **Discretion of Presiding Judge.** The presiding judge has the discretion to refuse, limit, terminate, or temporarily suspend, media coverage of an entire case or portions thereof, in order to: (i) control the conduct of the proceedings before the court; (ii) maintain decorum and prevent distractions; (iii) guarantee the safety of any party, witness, or juror; and (iv) ensure the fair administration of justice in the pending cause. Such exercise of the presiding judge's discretion shall be made following the procedures established in section D(2).

(2) **Evidentiary Hearing.** Before denying, limiting, suspending, or terminating media coverage, the presiding judge shall hold an evidentiary hearing, if such a hearing will not delay or disrupt the judicial proceeding. In the event that an evidentiary hearing is not possible, affidavits may be used. The burden of proof shall be on the party seeking limits on media coverage. If there is no opposition to media coverage, the presiding judge may consider matters that are properly the subject of judicial notice. Media requesting coverage shall be allowed to present proof, either at the evidentiary hearing or by affidavit. Any finding that media coverage should be denied, limited, suspended or terminated must be supported by substantial evidence that at least one of the four interests in section D(1) is involved, and that such denial, limitation, suspension, or termination is necessary to adequately reach an accommodation of such interest. The presiding judge shall enter written findings of fact detailing the substantial evidence required to support his or her order.

E. Appellate Review. Appellate review of a presiding judge's decision to terminate, suspend, limit, or exclude media coverage shall be in accordance with Rule 10 of the Tennessee Rules of Appellate Procedure.

F. Equipment and Personnel.

(1) **Limitations.** No more than two television cameras, with one photographer each, will be permitted in any judicial proceeding. No more than two non-television photographers using not more than two cameras or other electronic devices each, and one audio system for radio broadcast purposes, will be permitted in any judicial proceeding.

(2) **Pooling Arrangements.** When more than one request for media coverage is made,

the media shall select a representative to serve as a liaison and be responsible for arranging “pooling” among the media that may be required by these limitations on equipment and personnel. The identity of the person selected, including name, business address, phone and fax number, shall be filed with the clerk of the court in which the proceeding is to be held. Pooling arrangements shall be reached when the court is not in session and shall be the sole responsibility of the media without calling upon the presiding judge to mediate any dispute as to the appropriate media representative or equipment authorized to cover a particular proceeding. Such pooling arrangements shall include the designation of pool operators, procedures for cost sharing, access to and dissemination of material, and selection of a pool representative if appropriate. In the absence of advance media agreement on disputed equipment or personnel issues, the presiding judge shall exclude all contesting media personnel from a proceeding.

(3) **Personal Recorders.** Media personnel may use hand-held audio recorders that are no more sensitive than the human ear without complying with section A(2) of this rule. Such recorders are to be used for the making of sound recordings as personal notes of the proceedings, and shall not be used for any other purpose, including broadcast or other audio transmission. Usage shall not be obtrusive or distracting, and no change of tape or other electronic storage medium shall be made during court sessions.

(4) **Other Coverage.** This rule does not govern the coverage of a proceeding by a news reporter or other person who is not using a camera, audio equipment, or other electronic device.

G. Equipment Criteria.

(1) **Distractions.** Only television, photographic and audio equipment and other electronic devices that do not produce distracting sound or light shall be employed to cover proceedings in a court facility. Signal lights or devices to show when equipment is operating shall not be visible. Moving lights, flash attachments, or sudden light changes shall not be used.

(2) **Courtroom Light Source.** If possible, lighting for all purposes shall be accomplished from existing court facility light sources. If no technically suitable lighting exists in the court facility, modifications and additions may be made in light sources existing in the facility, provided such modifications and additions are unobtrusive, located in places designated in advance of any proceeding by the presiding judge, and without public expense.

(3) **Audio Pickup.** Audio pickup for all purposes shall be accomplished from existing audio systems present in the court facility or from an electronic device’s built-in microphone. If no technically suitable audio system exists in the court facility, microphones and related wiring essential for media purposes shall be unobtrusive and shall be located in places designated in advance of any proceeding by the presiding judge.

(4) **Technical Difficulties.** Court proceedings shall not be interrupted by media personnel because of a technical or equipment problem. If any problem occurs, that piece of equipment shall be turned off while the proceeding is in session. No attempt shall be made to correct the technical or equipment problem until the proceeding is in recess or has concluded.

H. Location of Equipment and Conduct of Media Personnel.

(1) **Location of Equipment and Personnel.** The presiding judge shall designate the location in the courtroom for media equipment and operators to permit reasonable coverage without disruption of proceedings.

(2) **Alterations.** No permanent installation shall be made nor shall any court facility be altered, unless approved in advance by the presiding judge. Expenses for alterations shall be borne by the media.

(3) **Movement During Proceedings.** During proceedings, operating personnel shall not move about nor make any adjustment or change of any equipment or electronic devices that disrupts or distracts from the proceeding. Media broadcast, photographic or audio equipment shall not be placed in or removed from the court facility except prior to commencement or after adjournment of proceedings each day, or during a recess in the proceeding.

(4) **Conduct of Media Personnel.** Media personnel assigned to cover a judicial proceeding shall attire and deport themselves in such a way that will not detract from the proceeding.

I. Impermissible Use of Media Material. None of the film, video or still images, audio recordings, or other electronic coverage of proceedings under this rule shall be admissible as evidence in the proceeding out of which it arose, any proceedings subsequent and collateral thereto, or upon any retrial or appeal of such proceeding.

J. Ceremonial Proceedings. This rule shall not limit media coverage of investiture, ceremonial, or nonjudicial proceedings conducted in court facilities under such terms and conditions as may be established by prior consent of the presiding judge.

K. Compliance. Media personnel who fail to comply with this rule shall be subject to an appropriate sanction as determined by the presiding judge.

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Andy Roskind, Knoxville
Michelle Sellers, Jackson
Sarah Sheppard, Knoxville
Gary Shockley, Nashville
Mary Dohner Smith, Nashville
Chris Varner, Chattanooga
David Veile, Franklin
Shelly Wilson, Knoxville

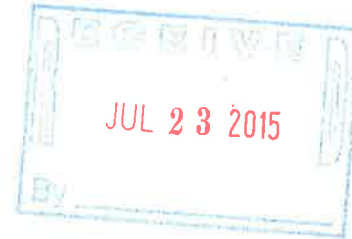
GENERAL COUNSEL

Paul Ney, Nashville

EXECUTIVE DIRECTOR

Allan F. Ramsaur, Nashville
Email: aramsaur@tbar.org

July 23, 2015



The Honorable James Hivner
Clerk, Tennessee Supreme Court
Supreme Court Building, Room 100
401 7th Avenue North
Nashville, TN 37219

IN RE: RULE 30
RULES OF THE TENNESSEE
SUPREME COURT
NO. ADM2015-00451

Dear James:

Attached please find an original and one copy of the Comment of the Tennessee Bar Association in reference to the above matter.

As always, thank you for your cooperation. I remain,

Very truly yours,

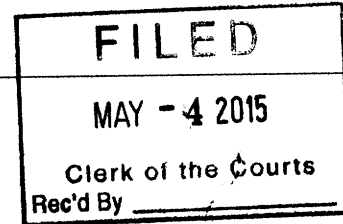
Allan F. Ramsaur
Executive Director

cc: Bill Harbison, President, Tennessee Bar Association
Lucian Pera, Vice President, Tennessee Bar Association
John Williams, Chair, Tennessee Bar Association Communication
Law Section
Paul Ney, General Counsel
Service List

Tennessee Bar Center
221 Fourth Avenue North, Suite 400
Nashville, Tennessee 37219-2198
(615) 383-7421 • (800) 899-6993
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www.tba.org



ADM2015-00451



April 29, 2015

Tennessee Supreme Court
Regarding: Proposed Rule 30 changes

Dear Justices:

I am the editor of the Knoxville News Sentinel, and in that role I interact almost daily with reporters and photographers covering the judicial process in Knox County.

I want to begin by expressing my appreciation of the Court's ongoing willingness to work with Tennessee's news media to find ways to make courtrooms as accessible to the public as possible without sacrificing order and decorum or the quality of justice. I believe that Rule 30 has worked well in providing a framework for allowing cameras in courtrooms, and I recognize that the changes to Rule 30 are being proposed in the same spirit of transparency and openness.

I am concerned, however, that the proposed changes, though well-intended, actually will result in a substantial step backward in public access to court proceedings.

Right now, the judges in Knox County allow reporters virtually unrestricted use of digital phones and tablets as reporting tools, provided, of course, that they are not used as cameras and are handled discreetly and silently so that there is no disruption to court proceedings. This has allowed reporters to greatly broaden their delivery of courtroom news to the citizenry. As you are aware, the City-County Building in Knoxville is the home of General Sessions, Circuit, Chancery and Criminal courtrooms. On a routine day, our reporters are in and out of several courtrooms covering multiple proceedings. Their coverage plans can change abruptly based on news developments. In some cases, the proceedings being covered have not even been published on the day's dockets as judges and attorneys juggle schedules. In each instance, the reporters use their digital devices to deliver news updates to our newsroom or to the public directly via social networks or other digital platforms.

Rule 30 requests are not being required in this work environment because the digital devices are not being employed as cameras or recording devices. Under the proposed rule change, however, requests would have to be submitted. This would seriously hamper the flexibility of reporters to cover a variety of proceedings, even if the 48-hour deadline routinely were waived. Attorneys who simply wanted to limit publicity would object to Rule 30 requests, especially last minute ones, and judges might be hesitant to delay proceedings to schedule Rule 30 hearings.

Because Rule 30 was developed with cameras and photographic images in mind, the proposed changes result in some illogical anomalies. For instance, definition of "coverage" would be expanded to include posting on a website or on a social media platform using an electronic device.

But the rule would continue to prohibit “coverage” of jury selection. This would mean that a reporter using a traditional pen and notebook could take notes on voir dire then leave the courtroom and post that information on a website or social media site. But that same reporter would be prohibited from posting the same information from an electronic device in the courtroom even when the device was allowed under a Rule 30 request.

When Rule 30 originally was being debated, a major concern was order and decorum in courtrooms. All agreed that cameras, by the nature of their use, injected some level of distraction into proceedings, so much of the focus was on how these distractions could be mitigated. Quiet cameras and limited positioning were responses to this concern. The proposed changes to Rule 30 continue to impose restrictions on a journalistic tool, now the “electronic device.” But unlike cameras, electronic devices have an array of uses. Some uses would create distractions in a courtroom. Others – including posting and messaging from within the courtroom -- are no more distracting than using a pen and notebook.

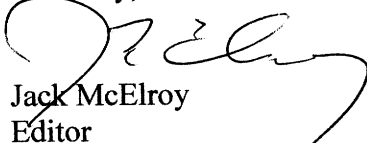
Another concern of the original Rule 30 was the content produced. At times, attorneys have argued that photos or video might prejudice a jury pool, invade the privacy of a witness or otherwise harm the judicial process because of the very nature of the content produced. Such cases have involved a balancing of First and Fourth Amendments rights and ideally have warranted full-blown hearings. But an electronic device, when not used as a camera or recorder, produces no special content. The words that a reporter places in a smartphone or digital tablet are indistinguishable from the words he or she places on paper in a notebook.

For these reasons, the proposed changes to Rule 30 represent a fundamental shift in the regulation of courtroom journalism. Now the delivery and dissemination of information is at issue. Reporters would be able to deliver the same content outside the courtroom using tools and methods that would be banned inside the courtroom. There would be no effect on courtroom decorum nor difference in the content viewed by the public. The only effect would be to slow down the work of the journalists. Sadly, this is being proposed at a time when the number of professional reporters covering the routine, day-to-day proceedings in local courtrooms is shrinking because of the diminished resources of traditional media.

Modern digital tools have allowed reporters to leverage their efforts to provide as much coverage as possible to citizens who increasingly are getting their news and information through non-traditional channels. Making that harder, without any offsetting gain in courtroom decorum or the judicial process, does not serve the interest of the justice system nor of the citizenry.

Again, I thank the Court for its attention to this issue and its consideration of the concerns expressed above.

Sincerely,



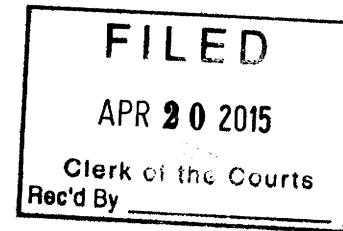
Jack McElroy
Editor

John Avery Emison, Ph.D.
365 East Church Street
Alamo, Tennessee 38001

E-mail: john.a.emison@hotmail.com

April 15, 2015

James Hivner, Clerk
RE: Rule 30
100 Supreme Court Building
401 7th Avenue North
Nashville, Tennessee 37219-1407



RE: No. ADMIN2015-00451

Dear Mr. Hivner:

As a public citizen and investigative author, I submit the following comments on the proposed change to Rule 30.

The present definition of “coverage” is rationally based in that it includes the various types of equipment that can be distractive to court participants, or may even appear to interfere with a neutral setting.

There is no rational basis to change this definition to include posting messages to social media, text messaging, etc., with a smart phone (“electronic device”) or similar product. Typing a message on a smart phone, Blackberry, iPad or similar device is no more or less discrete than writing notes on a paper tablet. The real reason for change is to isolate court proceedings from real-time reporting to the outside world. Before the Court adopts this change it should explain to the public why it believes this is important, and to provide examples of how such reporting has damaged the cause of justice in the past. I don’t believe it has, and I don’t believe the Court has any basis other than convenience and the desire to operate in as much anonymity as possible. Furthermore, I do not believe the proposed change comports to the constitutional mandate of openness in Article I, Sec. 17.

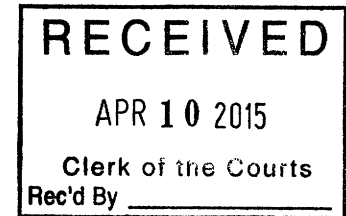
I urge the Court not to adopt the proposed changes to Rule 30, and if you do you should submit Rule 30 to the General Assembly for ratification.

Kindest regards,

John Avery Emison

From: "Ben Cunningham"
To: <lisa.marsh@tncourts.gov>
Date: 4/10/2015 1:26 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Adm2015-00451



Submitted on Friday, April 10, 2015 - 1:25pm
Submitted by anonymous user:
Submitted values are:

Your Name:
Your Address
Your email address
Your Position or Organization: President, The Nashville Tea Party, Inc. a TN
Non-profit
Rule Change: Supreme Court Rule 21, Sections 1.01 and 10 and Supreme Court
Rule 8, RPC 7.4(d)
Docket number: unknown
Your public comments:
Commenting on Rule 30, Media Guidelines (there was no option in the drop down
menu for rule 30)

The rules are far too restrictive on reporters. Reporters should not be
required to get permission from a judge for cell phones and computers. These
are the modern day pen and pad and they should only be excluded when the
press is excluded. Ben Cunningham

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/11551>

