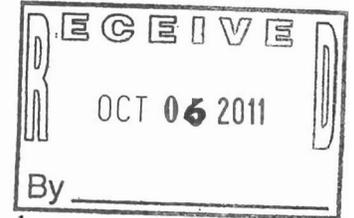




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October 3, 2011

Mike Catalano, Clerk
Tennessee Appellate Courts
100 Supreme Court Building
401 7th Avenue North
Nashville, TN 37219-1407



Re: Proposed Amendment to Rule 45 Tennessee Rules of Civil Procedure
M2011-01820-SC-RL2-RL

Dear Members of the Court:

I am writing to voice my objection to the proposed change to Rule 45.01 of the Tennessee Rules of Civil Procedure that would waive almost all objections to a subpoena if not filed within 14 days of service. This time frame is arbitrarily short and unfair, especially for a person or entity that is not a party to the litigation.

Like many in the business community, my company receives hundreds of subpoenas each year, most of which involve litigation for which we are not a party. Usually these subpoenas are extremely broad, and too often late and incorrect. Further, at times service of process is at a location that is not the headquarters and it may be several days before the subpoena actually reaches the legal department.

This proposal would force our company to err on the side of filing an immediate objection to the subpoena, if only to preserve the company's rights, resulting in increased litigation in the discovery process. I believe this time restriction would work an unnecessary hardship on all Tennessee residents but especially Tennessee companies that receive hundreds of subpoenas.

If a set time frame is viewed as absolutely necessary, we propose that it be at least 30 days for parties and 60 days for nonparties after proper service. This would give a respondent adequate time to communicate with the party seeking the information and tailor the response accordingly, which is our current practice.

Thank you for your consideration.

Yours,

Ed Lancaster, General Counsel
BPR #11034