

Supreme Court Appeals
Pending Cases
(04/17/12)

1. Style Rondal Akers et al v. Prime Succession of Tennessee, Inc., et al
 2. Docket Number E2009-02203-SC-R11-CV
 3. Lower Court Decision Link <http://www.tncourts.gov/sites/default/files/akersropn.pdf>
 4. Lower Court Summary

This case is before us for the second time on appeal. In our first Opinion, *Akers v. Buckner-Rush Enterprises, Inc.*, we held, *inter alia*, that Rondal D. Akers, Jr. and Lucinda Akers had standing to pursue their claims against T. Ray Brent Marsh; Marsh's former business, Tri-State Crematory ("Tri-State"); and Buckner-Rush Enterprises, Inc. *Akers v. Buckner-Rush Enterprises, Inc.*, 270 S.W.3d 67, 73-75 (Tenn. Ct. App. 2007). We remanded the case for trial. The Trial Court entered judgment upon the jury's verdict finding that Marsh had intentionally inflicted emotional distress upon the Akers, that Marsh had violated the Tennessee Consumer Protection Act, and that Marsh had violated a bailment responsibility to the Akers. The jury awarded Dr. Akers \$275,000 in damages and Mrs. Akers \$475,000 in damages. Marsh filed a motion for new trial or for judgment notwithstanding the verdict. After a hearing, the Trial Court granted Marsh a partial judgment notwithstanding the verdict reversing the judgment for the claims under the Tennessee Consumer Protection Act and bailment, and denied Marsh's motion as to the remaining claims. Marsh appeals to this Court. The Akers raise an issue on appeal regarding whether the Trial Court erred in granting judgment notwithstanding the verdict and dismissing their claims under the Tennessee Consumer Protection Act and bailment. We affirm the judgment in its entirety.
 5. Status Granted 1/11/12; Appellant's brief filed 2/10/12; Appellee's brief filed 04/05/12 To be heard 05/08/12 in Knoxville
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1. Style Allstate Ins. Co. v. Diana Lynn Tarrant, et al.
2. Docket Number E2009-02431-SC-R11-CV
3. Lower Court Decision Link <http://www.tncourts.gov/sites/default/files/OPINIONS/TCA/PDF/104/Allstate%20Insurance%20Co%20vs%20Diana%20Lynn%20Tarran.pdf>
4. Lower Court Summary

Plaintiff insurer brought this declaratory judgment action to determine which of the two policies issued to defendants insured and their corporation, covered a van which had been involved in an accident. Plaintiff named the insureds as defendants, as well as the third party who had filed a tort action against the insureds for personal injuries. The Trial Court conducted an evidentiary hearing and ruled that the insureds had told the agency plaintiff to keep the van in dispute on the commercial policy, but it had transferred the van to the insureds'

personal policy. The Court further ruled that a notice of the transfer was sent to the insureds by plaintiff, and plaintiff sent at least five bills to the insureds that reflected the van was then insured under the personal policy and not the commercial policy. The Court concluded that the insureds ratified the change and ruled that the van was insured under the insureds personal policy. On appeal, we reverse and dismiss the action.

5. Status Heard 8/31/11 in Knoxville; Judgment of the Court of Appeals affirmed on 03/26/12

1. Style Board of Professional Responsibility v. William S. Lockett

2. Docket Number E2011-01170-SC-R3-BP

3. Lower Court Decision Link N/A

4. Lower Court Summary Unavailable

5. Status Heard 1/5/12 in Knoxville

1. Style BSG, LLC v. Check Velocity, Inc.

2. Docket Number M2011-00355-SC-R11-CV

3. Lower Court Decision Link <http://www.tncourts.gov/sites/default/files/bsgopn.pdf>

4. Lower Court Summary BSG, LLC introduced CheckVelocity to Weight Watchers. In 2005, CheckVelocity and Weight Watchers entered into an agreement whereby CheckVelocity provided check collection services. BSG, in accordance with its agreement with CheckVelocity, was to receive compensation for its introduction of CheckVelocity to Weight Watchers in the form of residual fees during the time of the CheckVelocity - Weight Watchers agreement and any renewal agreements. In 2008, CheckVelocity and Weight Watchers entered into a new agreement in which credit card collection services were added and the check collection services were continued unchanged. CheckVelocity stopped paying the residual fees because it considered the Weight Watchers agreement to be a new agreement, not a renewal of the old one. BSG sued. The trial court considered the 2008 agreement to be a new agreement, not a renewal, and ruled for CheckVelocity. BSG appealed. We reverse.

5. Status Appellant's brief filed 01/03/12; Appellee's brief filed 02/02/12.

1. Style Lacey Chapman v. Davita, Inc.

2. Docket Number M2011-02674-SC-R10-WC

3.	Lower Court Decision Link	Unavailable
4.	Lower Court Summary	Unavailable
5.	Status	Granted 02/01/12 and set for hearing 06/12 in Nashville; Appellant's brief filed 03/06/12; Appellee's brief filed 03/21/12.

1.	Style	Donna Clark v. Sputniks, LLC, et al.
2.	Docket Number	M2010-02163-SC-R11-CV
3.	Lower Court Decision Link	http://www.tncourts.gov/sites/default/files/donna_clark_v_sputniks_llc.pdf
4.	Lower Court Summary	The trial court determined that the insurer of a bar was liable under its commercial general liability policy and liquor liability policy for the death of a bar patron. We have concluded that this occurrence is excluded under the assault and battery exclusion of the commercial general liability policy but is covered by the liquor liability policy.
5.	Status	Heard 02/16/12 in Nashville; consolidated with <u>Gamble v. Sputniks, LLC, et al.</u>

1.	Style	Joshua Cooper et al. v. Logistics Insight Corp. et al.
2.	Docket Number	No. M2010-01262-SC-R11-CV
3.	Lower Court Decision Link	http://www.tncourts.gov/sites/default/files/joshua_cooper_v_logistics_insight_corp.pdf
4.	Lower Court Summary:	This appeal arises out of a personal injury lawsuit, wherein plaintiff filed suit for injuries suffered in the course of his employment. Plaintiff's employer was allowed to intervene to assert a subrogation lien to recover workers' compensation benefits paid to plaintiff. Plaintiff settled his claim against the defendants, and an order of voluntary dismissal was entered. The intervenors moved to set the case for trial, asserting that the settlement between plaintiffs and defendants was negotiated without the consent of the intervenors and did not take into account plaintiff's future medical expenses, for which intervenors would be responsible. The trial court granted the intervenors' motion to set the case for trial, but subsequently dismissed the intervening petition, finding that the settlement resolved all claims against the defendants and that the intervening petition failed to state a claim upon which relief could be granted. Finding that dismissal of the intervening petition was error, the judgment of the trial court is reversed and the case remanded.
5.	Status	Heard 02/16/12 in Nashville

1.	Style	State ex rel. Robert E. Cooper, Jr., Attorney General and Reporter of the State of Tennessee v. NV Sumatra Tobacco Trading Company
2.	Docket Number	M2010-01955-SC-R11-CV
3.	Lower Court Decision Link	http://www.tncourts.gov/sites/default/files/state_of_tennessee_by_and_through_robert_e_cooper_jr_attorney_general_and_reporter_for_the_state_of_tennessee_v_nv_sumatra_tobacco_trading_company.pdf
4.	Lower Court Summary	<p>This appeal involves <i>in personam</i> jurisdiction over a foreign defendant. Appellant State of Tennessee brought suit against Appellee tobacco product manufacturer, under the Tobacco Escrow Fund Act, Tennessee Code Annotated Sections 47-31-101 <i>et seq.</i>, alleging that Appellee had failed to make escrow deposits, as required under the Act, for cigarettes sold in Tennessee. Based upon the trial court's finding that it lacked personal jurisdiction over the Appellee, it entered summary judgment in favor of the manufacturer. The State appeals. Upon review, we conclude that: (1) the facts of this case show that the manufacturer intentionally used a distribution system with the desired result of selling its product in all fifty states, including Tennessee, so as to support a finding that the manufacturer had minimum contacts with the State necessary to invoke the exercise of personal jurisdiction; (2) the exercise of personal jurisdiction, under the facts of this case, is reasonable and fair; (3) the manufacturer is subject to regulation under the Act; and (4) the Act is not unconstitutional. Moreover, we conclude that: (1) Appellee is a tobacco products manufacturer, as defined by the Escrow Fund Act; (2) Appellee's cigarettes were sold in Tennessee; and (3) Appellee is, therefore, liable for escrow payments under the Escrow Fund Act. Consequently, we grant the State's motion for summary judgment. The order of the trial court is reversed, and the matter is remanded for entry of summary judgment in favor of Appellant State and for calculation of the escrow amount owed by Appellee and entry of judgment thereon.</p>
5.	Status	Granted 1/11/12; Appellant's brief filed 03/12/12; Appellee's brief due 04/11/12.

1.	Style	Board of Professional Responsibility v. Thomas Cowan
2.	Docket Number	E2012-00377-SC-R3-BP
3.	Lower Court Decision Link	Unavailable
4.	Lower Court Summary	Unavailable
5.	Status	Notice of Appeal received 02/22/12

1.	Style	Walton Cunningham, et cl. v. Williamson County Hospital District, et al.
2.	Docket Number	M2011-00554-SC-S09-CV
3.	Lower Court Decision Link	http://www.tncourts.gov/sites/default/files/cunninghamwopn.pdf
4.	Lower Court Summary	Defendants, Williamson Medical Center and five of its employees, appeal from the denial of their motion to dismiss this medical malpractice action. They contend the action is time barred because it was filed more than one year after the cause of action accrued, in violation of the one year statute of limitations applicable to Tennessee Governmental Tort Liability Act actions, codified at Tennessee Code Annotated § 29-20-305(b). The trial court, however, found that the action was timely filed because it was commenced within the 120-day extension afforded to the plaintiffs pursuant to an amendment to the Tennessee Medical Malpractice Act, codified at Tennessee Code Annotated § 29-26-121(c) (2009). We have determined that the amendment codified at Tennessee Code Annotated § 29-26-121(a)-(c) applies, notwithstanding the one-year statute of limitations provision under the Governmental Tort Liability Act, that the plaintiffs' compliance with the pre-suit notification provision in Tennessee Code Annotate § 29-26-121(a) extended the statute of limitations by 120 days, and that this action was timely filed within the 120-day extension. Therefore, were affirm.
5.	Status	Application granted on 04/11/12

1.	Style	Dick Broadcasting Co., Inc. v. Oak Ridge FM, Inc., et al.
2.	Docket Number	E2010-01685-SC-R11-CV
3.	Lower Court Decision Link	http://www.tncourts.gov/sites/default/files/dickbroadcastingopn.pdf
4.	Lower Court Summary	The plaintiff filed suit against the defendants for causes of action sounding in contract after the defendants refused to consent to the assignment of certain agreements relating to the programming of a radio station. The parties filed competing summary judgment motions. The trial court dismissed the case, finding as a matter of law that the defendants did not breach one of the contracts at issue. The plaintiff appealed. We reverse the judgment of the trial court.
5.	Status	Application granted on 04/11/12

1.	Style	Discover Bank v. Joy A. Mogan
2.	Docket Number	E2009-01337-SC-R11-CV
3.	Lower Court Decision Link	http://www.tncourts.gov/sites/default/files/OPINIONS/TCA/PDF/102/Discover

4. Lower Court Summary
- This lawsuit began as a collection claim filed by Discover Bank (“Discover”) against Joy A. Morgan (“Morgan”) for \$16,341.52. Discover claimed Morgan owed this amount on a credit card originally issued to Morgan’s husband, now deceased. Morgan filed an answer and counterclaim, asserting a claim for libel as well as claims pursuant to the federal Fair Credit Reporting Act, 15 U.S.C. § 1681, and the Tennessee Consumer Protection Act, Tenn. Code Ann. § 47-18-101, *et seq.* Morgan’s attorney gave Discover’s original attorney an extension of time in which to file an answer to the counterclaim. After this extension of time had run, Morgan’s attorney warned Discover’s attorney that a motion for default judgment would be filed if an answer was not filed within fourteen days. When Discover failed to file an answer within the fourteen days, Morgan filed a motion for default judgment. Discover’s attorney failed to show up for the hearing and a default judgment was awarded to Morgan. Discover filed a Motion to Set Aside Default Judgment “pursuant to Rule 60.02. . . .” This motion was denied. Following a later hearing on damages, Morgan was awarded compensatory damages totaling \$125,200, which the Trial Court then trebled under the Tennessee Consumer Protection Act. After obtaining new counsel, Discover filed a motion to alter or amend the judgment, which was denied. Discover now appeals. We affirm the Trial Court’s Order denying Discover’s motion to alter or amend the judgment and set aside the default judgment. We, however, vacate the award of damages and remand for a new hearing on the amount of damages and also to determine reasonable attorney fees incurred by Morgan on appeal.
5. Status
- Heard 8/31/11 in Knoxville; Judgment of the Court of Appeals affirmed on 03/27/12.
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1. Style
- Estate of Ina Ruth Brown
2. Docket Number
- E2011-00179-SC-R11-CV
3. Lower Court Decision Link
- <http://tncourts.gov/sites/default/files/inreestateofbrownopn.pdf>
4. Lower Court Summary
- This appeal arises from a dispute concerning a contract to execute mutual wills. Ina Ruth Brown (“Mrs. Brown”), and her husband, Roy Brown, Jr. (“Mr. Brown”), executed mutual wills as agreed by contract. After Mr. Brown’s death, Mrs. Brown executed a new will. Mrs. Brown died. Rockford Evan Estes (“Defendant”), Mrs. Brown’s son, submitted the new will for probate. Mr. Brown’s adult children, Roy E. Brown, III, Joan Brown Moyers, and Donna Brown Ellis (“the Plaintiffs”) filed this will contest suit in the Chancery Court for Knox County, Probate Division (“the Trial Court”), contesting the new will on the basis that, among other things, the mutual wills between Mr. Brown and Mrs. Brown were irrevocable. Both the Plaintiffs and Defendant filed a Motion for Summary Judgment. The Trial Court denied Defendant’s motion, granted the Plaintiffs’ motion for summary judgment, and voided the new will created by Mrs. Brown. Defendant appeals. We hold that the Trial Court did not err in denying Defendant’s motion for summary judgment because the Trial Court did have subject matter jurisdiction to hear this will contest based on this breach of contract claim. We further find that the Trial Court did not err in granting the

Plaintiffs' motion for summary judgment after also finding that the June 13, 2002 contract to execute mutual wills was supported by adequate consideration. We affirm the judgment of the Trial Court.

5. Status Granted 03/07/12; Appellant's brief due 04/05/12.

1. Style Estate of Thomas Grady Chastain

2. Docket Number E2011-01442-SC-R1-CV

3. Lower Court Decision Link <http://www.tncourts.gov/sites/default/files/chastaintg.pdf>

4. Lower Court Summary We granted the application of June Chastain Patterson ("the Proponent"), which sought permission to appeal an order of the trial court holding, as a matter of law, that the "will" of Thomas Grady Chastain ("the Deceased") was not executed in compliance with Tenn. Code Ann. § 32-1-104 (2007). The Deceased signed the affidavit of attesting witnesses on September 4, 2004, which affidavit was attached to the purported will of the same date; he also initialed the bottom of the first page of the "will," but did not sign the second page of the two-page "will." The Proponent appeals. We reverse.

5. Status Application granted on 04/11/12

1. Style Christopher Furlough v. Spherion Atlantic Workforce, LLC

2. Docket Number M2011-00187-SC-WCM-WC

3. Lower Court Decision Link Unavailable

4. Lower Court Summary Unavailable

5. Status Granted 12/14/11; Appellant's brief filed 01/13/12; Appellee's brief filed 02/10/12; Appellant's reply brief filed 02/24/12.

1. Style Leonard Gamble v. Sputniks, LLC, et al.

2. Docket Number M2010-02145-SC-R11-CV

3. Lower Court Decision Link http://www.tncourts.gov/sites/default/files/leonard_gamble_v_sputniks_llc.pdf

4. Lower Court Summary The trial court determined that the insurer of a bar was liable under its commercial general liability policy and liquor liability policy for injuries to a bar

patron. We have concluded that this occurrence is excluded under the assault and battery exclusion of the commercial general liability policy but is covered by the liquor liability policy.

5.	Status	Heard 02/16/12 in Nashville; Consolidated with <u>Clark v. Sputniks, LLC et al.</u>
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1.	Style	Jerry Garrison, et cl. v. Rita Bickford, et al.
2.	Docket Number	E2010-02008-SC-R11-CV
3.	Lower Court Decision Link	http://www.tncourts.gov/sites/default/files/jerry_garrison_v_andy_e_bickford.pdf
4.	Lower Court Summary	Plaintiffs brought this action for the wrongful death of their son, and also for their damages arising from "negligent infliction of emotional distress". State Farm Mutual Insurance Company filed a Motion for Partial Summary Judgment on the grounds that its policy afforded no coverage for a negligent infliction of emotional distress. The Trial Court overruled the Motion but proposed a Rule 9 appeal, which this Court granted. We reverse the Trial Court on this issue and grant the summary judgment motion.
5.	Status	Appellant's brief filed 01/04/12; Appellee's brief filed 01/31/12; To be heard in Knoxville on 05/08/12
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1.	Style	Gerdau Ameristeel Inc. v. Steven Ratliff
2.	Docket Number	W2011-00381-WC-R3-WC
3.	Lower Court Decision Link	Not Applicable
4.	Lower Court Summary	Not Applicable
5.	Status	Heard 04/04/12 in Jackson.
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1.	Style	Cheryl Brown Giggers, et al. v. Memphis Housing Authority et al.,
2.	Docket Number	W2010-00806-SC-R11-CV
3.	Lower Court Decision Link	http://www.tncourts.gov/sites/default/files/cheryl_brown_giggers_v_memphis_housing_authority_opn.pdf
4.	Lower Court Summary	This is the second appeal of this wrongful death action, arising from a fatal shooting of a tenant at a Memphis public housing property. This Court granted Appellant, Memphis Housing Authority's, Tenn. R. App. P. 9 interlocutory

appeal to address the trial court's denial of summary judgment in favor of the Appellant. Finding that Appellees' "failure to evict" claim is preempted by 47 U.S.C. §1437, and that Appellant retains its sovereign community under the discretionary function exception to the Tennessee Governmental Tort Liability Act, we reverse and remand for entry of summary judgment in favor of Appellant. Reversed and remanded.

5. Status Heard in Jackson 11/2/11; Judgment of the Court of Appeals reversed on 04/02/12.

1. Style Fred T. Hanzelik v. Board of Professional Responsibility

2. Docket Number E2011-01886-SC-R3-BP

3. Lower Court Decision Link Unavailable

4. Lower Court Summary Unavailable

5. Status Appellee's brief filed on 04/13/12; To be heard 05/08/12 in Knoxville

1. Style Christian Heyne and Parents, William and Robin Heyne v. Metropolitan Nashville Board of Public Education

2. Docket Number M2010-00237-SC-R11-CV

3. Lower Court Decision Link http://www.tncourts.gov/sites/default/files/christian_heyne_v_metropolitan_nashville_board_of_public_education_opn.pdf

4. Lower Court Summary This is a common law writ of certiorari review of a student's ten-day suspension for a violation of the Student-Parent Code of Conduct for reckless endangerment. The student was suspended by the school principal following an incident where he drove his vehicle toward a group of students resulting in injury to one student. The suspension was appealed to a disciplinary panel, then to a discipline administrator, and lastly to the school board. The suspension was upheld at each level. Thereafter, this petition for common law writ of certiorari was filed. The trial court found that the suspended student's due process rights were violated by the failure to provide an impartial panel and that the decision was arbitrary as it was not supported by the evidence. The court also awarded the petitioners their attorneys' fees pursuant to 42 U.S.C. § 1983. We reverse finding the student's due process rights were not violated and that the decision was not arbitrary because it is supported by material evidence.

5. Status Heard 02/16/12 in Nashville; Motion to file amicus curiae brief by Tenn. School Board Ass'n filed 01/12/12.

1.	Style	Elliot H. Himmelfarb, M.D., et al. V. Tracy R. Allain
2.	Docket Number	M2010-02401-SC-R11-CV
3.	Lower Court Decision Link	http://www.tncourts.gov/sites/default/files/elliott_h_himmelfarb_md_v_tracy_r_allain.pdf
4.	Lower Court Summary	Two physicians filed this malicious prosecution action against a former patient after she voluntarily dismissed, without prejudice, a medical malpractice action she filed against them. The defendant, the former patient, moved for summary judgment asserting that the plaintiffs could not prove the essential elements of a malicious prosecution claim: that the medical malpractice suit was brought without probable cause, that it was brought with malice, and that it was terminated in the physicians' favor. The trial court denied the motion. We have determined that the issue of favorable termination in this case involves questions of fact and law, and that fact questions concerning the circumstances surrounding the voluntary dismissal without prejudice of the medical malpractice action are in dispute. We have also determined that there are genuine issues of material fact concerning the other essential elements. Therefore, the defendant's motion for summary judgment was properly denied.
5.	Status	Heard 02/16/12 in Nashville

1.	Style	Tina Marie Hodge v. Chad Craig
2.	Docket Number	M2009-00930-SC-R11-CV
3.	Lower Court Decision Link	http://www.tncourts.gov/sites/default/files/OPINIONS/TCA/PDF/104/Tina%20Marie%20Hodge%20v%20Chadwick%20Craig.pdf
4.	Lower Court Summary	This is a fraud claim between ex-spouses. While the petitioner mother and the respondent were dating, the mother became pregnant, and she told the respondent that the child was his. Consequently, she and the respondent married, and the child was born during the marriage. Years later, the parties divorced, and the respondent paid child support to the mother. After several years, the respondent obtained a DNA test, which revealed that he is not the child's biological father. After he told the mother of the test results, she filed a petition requesting a court-ordered paternity test and modification of the parenting plan. The respondent filed a counter-petition, alleging negligent and/or intentional misrepresentation by the mother for falsely representing that he was the child's biological father. After a bench trial, the trial court awarded the respondent compensatory damages for past child support, medical expenses, and insurance premiums paid for the child, compensatory damages for emotional distress, and attorney fees. The mother now appeals. We conclude that under Tennessee statutes, the respondent cannot recover the past child support, medical expenses, and insurance premiums, as this would be a retroactive modification of a valid child support order. We find that the remaining damages for emotional distress cannot be awarded for the tort of fraud and misrepresentation, because

such damages are non-pecuniary. Therefore, we reverse the decision of the trial court.

5. Status Heard 11/02/11 in Jackson

1. Style M. Josiah Hoover III v. Board of Professional Responsibility

2. Docket Number E2011-01886-SC-R3-BP

3. Lower Court Decision Link Unavailable

4. Lower Court Summary Unavailable

5. Status Record filed on 03/21/12

1. Style R. Douglas Hughes, et al. v. New Life Development Corporation, et al.

2. Docket Number M2010-00579-SC-R11-CV

3. Lower Court Decision Link http://www.tncourts.gov/sites/default/files/r_douglas_hughes_v_new_life_development_corporation.pdf

4. Lower Court Summary In this dispute concerning the use of real property located in a common interest community, we have concluded that summary judgment based on the amendments to the restrictive covenants was not appropriate. We also find that the new owner has the authority to act as developer.

5. Status Heard 02/15/12 in Nashville

1. Style In Re: Estate of Ardell Hamilton Trigg, Deceased

2. Docket Number M2009-02107-SC-R11-CV

3. Lower Court Decision Link http://www.tncourts.gov/sites/default/files/in_re_trigg_opinion.pdf

4. Lower Court Summary The Bureau of TennCare filed a claim against a decedent's estate to recover the cost of medical assistance provided to the decedent. The Estate filed an exception to the claim. The probate court sustained the claim, and the Estate appealed the probate court's ruling to the circuit court which heard the matter de novo. The circuit court reversed the probate court and disallowed the claim of TennCare. TennCare appeals; we hold that the circuit court was without subject matter jurisdiction to review the probate court's order. We vacate the judgment of the circuit court and remand the case.

5.	Status	Heard 10/06/11 in Nashville
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1.	Style	In re: Taylor W. et al
2.	Docket Number	E2011-00352-SC-R11-PT
3.	Lower Court Decision Link	http://www.tncourts.gov/sites/default/files/taylorbwopn.pdf
4.	Lower Court Summary	The father and his wife petitioned the Court to terminate the parental rights of the two minor children's mother and allow the father's wife to adopt the two minor children. After a myriad of pleadings, the Trial Court held an evidentiary hearing and ruled that the father had proved statutory grounds to terminate the mother's parental rights, and that it was in the best interest of the two minor children that her parental rights be terminated. The mother petitioned to reconsider, and upon further consideration the Trial Court reversed its ruling and held that it was not in the children's best interest to terminate her rights as a parent of the two children. Petitioners appealed, and on appeal we hold that clear and convincing evidence established the statutory grounds for termination and clear and convincing evidence established that it was in the children's best interest to terminate the mother's parental rights. Further, that the Trial Judge in reversing her findings that it was in the best interest of the children to terminate the parental rights of the mother, focused on the rights of the mother rather than the rights of the children, as required by the statute and authorities. We reinstate the original Judgment of the Trial Court terminating the mother's parental rights.
5.	Status	Granted 2/16/12; Appellant's brief due 03/19/12; Appellee's brief filed on 04/13/12
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1.	Style	Jeanette Rae Jackson v. Bradley Kent Smith
2.	Docket Number	W2011-00194-SC-R11-CV
3.	Lower Court Decision Link	http://www.tncourts.gov/sites/default/files/jacksonjopn.pdf
4.	Lower Court Summary	This is a grandparent visitation case. Following the death of her daughter (the minor child's mother), the Appellant grandmother petitioned the trial court for visitation rights with her granddaughter pursuant to Tennessee Code Annotated Section 36-6-306. The trial court denied visitation based upon its finding that Appellant had not carried her burden to demonstrate a danger of substantial harm to the child. No appeal was taken from this order. Subsequently, the Legislature amended Tennessee Code Annotated Section 36-6-306 to create a rebuttable presumption of substantial harm based upon the cessation of the relationship between the child and grandparent. After the law was changed, Appellant filed a second petition for visitation with her granddaughter, citing the amended statute as grounds for re-visiting the issue of visitation. The trial court granted Appellee father's Tennessee Rule of Civil Procedure 12.02 motion to dismiss the second

petition on the ground of *res judicata*. We conclude that the doctrine of *res judicata* may apply even though there has been an intervening change in the substantive law. However, because the prior order, upon which the trial court based its *res judicata* finding, is not in the appellate record, this Court cannot review the question of whether the motion to dismiss was properly granted. Affirmed.

5. Status Heard 04/04/12 in Jackson.

1. Style Clifton A. Lake et al v. The Memphis Landsmen, LLC et al

2. Docket Number W2011-00660-SC-R11-CV

3. Lower Court Decision Link <http://www.tncourts.gov/sites/default/files/OPINIONS/TCA/PDF/101/Clifton%20Lake%20etal%20v%20Memphis%20Landsmen%20OOC%20etal%20OPN.pdf>
<http://www.tncourts.gov/sites/default/files/landsmenopn.pdf>

4. Lower Court Summary This is an appeal from a jury verdict in a negligence and products liability case. Appellant-Husband was injured when the bus, on which he was a passenger, collided with a concrete truck. Appellant-Husband and Appellant-Wife filed suit against Appellees- the bus manufacturer, the bus owner, and the franchisor. Following trial, the jury found that the Appellants had suffered \$8,543,630.00 in damages, but found that none of the Appellees were at fault and apportioned one hundred percent of the fault to a non-party. Appellants appeal. We find that Appellants' claims based on the use of tempered glass in the side windows of the bus, and the lack of passenger seatbelts in the bus are preempted by the National Traffic and Motor Vehicle Safety Act, 49 U.S.C. §30101 *et seq.* Further, we find that the Appellants failed to present evidence that the use of perimeter seating in the bus caused the injuries. Consequently, we find that the trial court erred in not granting Appellees' motions for directed verdict on the Appellants' claims based on the use of perimeter seating. Reversed and remanded.

5. Status Granted 03/06/12; Appellant's brief filed on 04/05/12.

1. Style Davey Mann et al v. Alpha Tau Omega Fraternity et al.

2. Docket Number W2010-02316-SC-R11-CV

3. Lower Court DecisionLink http://www.tncourts.gov/sites/default/files/davey_mann_and_wife_teresa_mann_v_alpha_tau_omega_fraternity.pdf

4. Lower Court Summary Plaintiffs sued Defendants in an amended complaint following the expiration of the statute of limitations. Defendants moved for summary judgment/judgment on the pleadings based on the expiration of the statute of limitations. Subsequently, co-defendants alleged Defendants' comparative fault in an amended answer.

Defendants' motions for summary judgment and for judgment on the pleadings were granted, but were not made final. Based on co-defendants' answer, Plaintiffs again amended their complaint to name Defendants pursuant to Tennessee Code Annotated section 20-1-119. However, Defendants claimed that section 20-1-119 could not be utilized as they were already parties to the lawsuit, and they moved for summary judgment and to dismiss. The trial court granted said motions, and we affirm.

5.	Status	To be heard 04/04/12 in Jackson.
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1.	Style	Troy Mitchell v. Fayetteville Public Utilities
2.	Docket Number	M2011-00410-SC-R3-WC
3.	Lower Court Decision Link	None Available
4.	Lower Court Summary	None Available
5.	Status	Heard 02/15/12 in Nashville
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1.	Style	Herbert S. Moncier v. Board of Professional Responsibility
2.	Docket Number	E2012-00340-SC-R3-BP
3.	Lower Court Decision Link	Unavailable
4.	Lower Court Summary	Unavailable
5.	Status	Pending the filing of the record.
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1.	Style	Herbert S. Moncier v. Board of Professional Responsibility
2.	Docket Number	E2011-02634-SC-R3-BP
3.	Lower Court Decision Link	Unavailable
4.	Lower Court Summary	Unavailable
5.	Status	Order filed 03/07/12 directing Mr. Moncier to comply with Tenn. R. App. P. 24 (b)-(d) to avoid dismissal of his appeal.
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1.	Style	Herbert S. Moncier v. Hearing Panel of the Board of Professional Responsibility
2.	Docket Number	E2011-02635-SC-R3-BP
3.	Lower Court Decision Link	Unavailable
4.	Lower Court Summary	Unavailable
5.	Status	Order filed 03/07/12 directing Mr. Moncier to comply with Tenn. R. App. P. 24 (b)-(d) to avoid dismissal of his appeal.

1.	Style	Morgan Keegan & Company, Inc. v. William Hamilton Smythe, III
2.	Docket Number	W2010-01339-SC-R11-CV
3.	Lower Court Decision Link	http://www.tncourts.gov/sites/default/files/morgankeeganopn.pdf
4.	Lower Court Summary	This appeal involves a trial court's order vacating an arbitration award. The parties engaged in arbitration over a dispute in which the respondent investors asserted that the petitioner investment company mismanaged their funds. The investors prevailed and received a substantial arbitration award against the investment company. The investment company filed a petition in the trial court to vacate the arbitration award, alleging partiality and bias on the part of two members of the arbitration panel. After a hearing, the trial court entered an order vacating the arbitration award and remanding the matter to the regulatory authority for a rehearing before another panel of arbitrators. The respondent investors now appeal. We dismiss the appeal for lack of appellate jurisdiction.
5.	Status	Application granted 04/11/12

1.	Style	Curtis Myers v. Amisub (SFH), d/b/a St. Francis Hospital, et al.
2.	Docket Number	W2010-00837-SC-R11-CV
3.	Lower Court Decision Link	http://www.tncourts.gov/sites/default/files/curtis_myers_v_amisub_sfh_inc_dbast_francis_hospital_opn.pdf
4.	Lower Court Summary	The trial court denied Defendants' motion to dismiss in a medical malpractice action initially filed prior to the effective date of the notice and certificate of good faith provisions subsequently codified at Tennessee Code Annotated sections 29-26-121 and 29-26-122, and nonsuited and re-commenced after the effective date of the provisions despite Plaintiff's failure to fulfill the statutory requisites. We granted permission to appeal pursuant to Rule 9 of the Rules of

Appellate Procedure. We reverse and remand for dismissal.

5. Status Heard 04/04/12 in Jackson.

1. Style Porsha Perkins v. Metropolitan Government of Nashville and Davidson County

2. Docket Number M2010-02021-SC-R11-CV

3. Lower Court Decision Link <http://www.tncourts.gov/sites/default/files/perkinspopn.pdf>

4. Lower Court Summary
A social worker employed by an agency of the Metropolitan Government of Nashville and Davidson County was discharged from her job following an allegation that she had pinched a child attending a Head Start program. She then filed a discrimination and wrongful termination claim with the Metro Civil Service Commission. After the allegations against her proved to be baseless, she settled her claim with Metro for \$45,000 and agreed not to be reinstated in her former job. She subsequently filed a complaint in the Circuit Court of Davidson County for retaliatory discharge and for employment discrimination. The discrimination claim was eventually dismissed by agreed order. Metro filed a motion for summary judgment on the remaining claim for wrongful discharge. The trial court granted the motion, reasoning among other things that because of the settlement of her claim and her agreement not to be reinstated, she could not prove, as a matter of law, that she was “adversely affected” in any material way by the termination of her employment. We affirm the trial court.

5. Status Granted 1/11/12; Per extension order, appellant’s brief due 04/18/12

1. Style Eddie C. Pratcher, Jr. v. Consultants in Anesthesia, Inc. et al.

2. Docket Number W2011-01576-SC-S09-CV

3. Lower Court Decision Link None Available

4. Lower Court Summary None Available

5. Status Granted 12/13/11; Record to be filed 02/21/12; Appellant’s brief filed 03/21/12

1. Style Ready Mix, USA v. Jefferson County

2. Docket Number E2010-00547-SC-R11-CV

3. Lower Court Decision Link http://www.tncourts.gov/sites/default/files/ready_mix_usa_llc_v_jefferson_county_tennessee.pdf and

http://www.tncourts.gov/sites/default/files/ready_mix_usa_llc_v_jefferson_county_tennessee_dis.pdf

4. Lower Court Summary Defendant issued a stop work order against plaintiff to cease mining activities on plaintiff's property. Plaintiff brought suit in Chancery Court seeking a declaratory judgment on the issue. A bench trial was held and the Trial Court adopted the doctrine of diminishing assets and that Ready Mix had established a pre-existing and non-conforming use on its property pursuant to Tenn. Code Ann. § 13-7-208 (b)(1). Defendant has appealed and we hold on this record that plaintiff was required to exhaust its administrative remedies prior to filing an action in Chancery Court.
5. Status To be heard 05/08/12 in Knoxville; Granted 10/18/11; Appellant's reply brief filed 03/30/12..
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1. Style Daniel Renteria-Villegas, et al. v. Metro Government of Nashville, et al.
2. Docket Number M2011-02423-SC-R23-CQ
3. Lower Court Decision Link N/A
4. Lower Court Summary N/A
5. Status Rule 23 certification order filed on 04/12/12. Issue from United States District Court for the Middle District of Tennessee is: Does an October 2009 Memorandum of Agreement between the United States Immigration and Customs Enforcement and the Metropolitan Government of Nashville and Davidson County, by and through the Davidson County Sheriff's Office, violate the Charter of Nashville and Davidson County or other state law?
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1. Style Paul Dennis Reid v. State (consolidated appeal)
2. Docket Number M2009-00128-SC-R11-PD;
M2009-00360-SC-R11-PD;
M2009-01557-SC-R11-PD
3. Lower Court Decision Link <http://www.tncourts.gov/sites/default/files/reidpauldennisopn.pdf>
4. Lower Court Decision Summary Paul Dennis Reid, Jr. was convicted and sentenced to death on seven counts of first degree murder. Reid's convictions and sentences were affirmed on direct appeal by the supreme court. The instant appeals stem from evidentiary hearings wherein the Montgomery and Davidson County trial courts concluded that Reid was competent to decide on his own behalf to forego any post-conviction relief on his convictions and sentences. Following our review, we affirm the judgments of the trial courts.

5.	Status	Appellant's brief filed 03/09/12; State's brief due 04/09/12
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1.	Style	Betty Saint Rogers v. Louisville Land Co., et al.
2.	Docket Number	E2010-00991-SC-R11-CV
3.	Lower Court Decision Link	http://www.tsc.state.tn.us/sites/default/files/betty_saint_rogers_v_louisville_land_company.pdf
4.	Lower Court Summary	Betty Saint Rogers ("Plaintiff") sued Louisville Land Company and Joe I V. Williams, III ("Defendants") alleging claims under the Tennessee Consumer Protection Act, the Tennessee statutes governing cemeteries, outrageous conduct, and breach of contract, among other things. After a non-jury trial, the Trial Court entered its final judgment awarding Plaintiff a judgment of \$250.00 for breach of contract, \$45,000.00 for intentional infliction of emotional distress, \$250,000.00 in punitive damages, \$37,306.25 in attorney's fees, and \$556.42 in discretionary costs. Defendants appeal to this Court. We find and hold that Plaintiff did not prove intentional infliction of emotional distress, and we, therefore, reverse the judgments for intentional infliction of emotional distress and punitive damages. We also find and hold that because Plaintiff abandoned her statutory claim, she was not entitled to an award of attorney's fees pursuant to the statute, and we reverse the award of attorney's fees. We further find and hold that Plaintiff did prove breach of contract, and we affirm the award of damages for breach of contract, and the remainder of the Trial Court's final judgment.
5.	Status	Heard 01/05/12 in Knoxville
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1.	Style	SNPCO, Inc. d/b/a Salvage Unlimited v. City of Jefferson, et al.
2.	Docket Number	E2009-02355-SC-R11-CV
3.	Lower Court Decision Link	http://www.tncourts.gov/sites/default/files/OPINIONS/TCA/PDF/104/SNPCO%20Inc%20dba%20Salvage%20Unlimited%20vs%20Jefferson%20City%20opn.pdf
4.	Lower Court Summary	The question before this Court is whether the grandfather clause of Tennessee Code Annotated section 13-7-208(b)(1) protects the owner of newly annexed city property from the enforcement of a citywide ordinance prohibiting the sale and storage of fireworks. Interpreting section 13-7-208(b)(1) strictly against the landowner, we hold that the grandfather clause does not apply because the ordinance is not a "zoning" restriction or regulation, i.e., the ordinance does not regulate the use of property within distinct districts or zones pursuant to a comprehensive zoning plan. Accepting the facts alleged in the landowner's amended complaint as true, the landowner is not entitled to an injunction prohibiting enforcement of the ordinance against its preexisting fireworks

business. We accordingly affirm the dismissal of the landowner's amended complaint for failure to state a claim upon which relief may be granted.

5. Status Heard 08/31/11 in Knoxville; Judgment of the Court of Appeals affirmed on 03/26/12

1. Style State of Tennessee v. Prince Adams

2. Docket Number W2009-01492-SC-R11-CD

3. Lower Court Decision Link <http://www.tncourts.gov/sites/default/files/adamspopn.pdf>

4. Lower Court Summary
The defendant, Prince Adams, was convicted by a Shelby County jury of premeditated first degree murder and subsequently sentenced to life in the Tennessee Department of Correction. He now appeals his conviction, presenting five issues for our review: (1) whether the evidence is sufficient to support the conviction; (2) whether the trial court properly allowed into evidence photographs of the victim (a) while she was alive and (b) of her body at the crime scene; (3) whether the court properly denied the defendant's motion in limine with regard to the admission of his prior domestic violence charge; (4) whether the defendant is entitled to a new trial because an alternate juror left a note expressing his position with regard to the defendant's guilt, which was found by the jury foreperson prior to jury deliberations; and (5) whether the court correctly denied the defendant's request for a special jury instruction on diminished capacity. Following review of the record, we find no issue that would entitle the defendant to relief. As such, the conviction and sentence are affirmed.

5. Status Granted 2/15/12; Appellant's brief due 04/16/12, after extension.

1. Style State of Tennessee v. James Beeler

2. Docket Number E2010-00860-SC-R11-CD

3. Lower Court Decision Link <http://www.tncourts.gov/sites/default/files/beelerjamesopn.pdf>

4. Lower Court Summary
Defendant, James Beeler, an attorney, was cited for contempt of court in the Washington County Criminal Court because, during a court proceeding, he communicated with his client's co-defendant who was represented by other counsel. Following a hearing, the trial court found Defendant in contempt of court and imposed a fine and a sentence of ten days in jail. At a subsequent hearing, the trial court suspended Defendant's sentence. Defendant now appeals his conviction and asserts that the evidence was insufficient to support his conviction for contempt of court. He specifically argues that it was error for the trial court to enforce Tennessee Supreme Court Rule 8 or to charge Defendant with criminal contempt for a violation of Supreme Court Rule 8. After a careful

review of the record, we affirm the judgment of the trial court.

5. Status Granted 03/09/12; Appellant's brief filed 03/14/12; Appellee's brief due 04/13/12; Appellee filed motion for extension 04/13/12; To be heard 05/09/12 in Knoxville

1. Style State of Tennessee v. Susan Renee Bise

2. Docket Number E2011-00005-SC-R11-CD

3. Lower Court Decision Link <http://www.tncourts.gov/sites/default/files/bisesusanopn.pdf>

4. Lower Court Summary The defendant, Susan Renee Bise, was convicted by a Greene County Criminal Court jury of facilitation of aggravated burglary and two counts of theft of property in an amount greater than \$1000 but less than \$10,000, all Class D felonies, and was sentenced to an effective term of three years as a Range I offender. On appeal, she challenges the sufficiency of the evidence of her theft convictions and the sentence imposed by the trial court. After review, we affirm the defendant's convictions, but we conclude that the trial court inappropriately enhanced the defendant's sentences. Therefore, we modify the defendant's sentences to the minimum in the range of two years.

5. Status Granted 01/11/12; Appellant's brief filed 03/14/12, Appellee's brief filed 04/13/12; To be heard 05/09/12 in Knoxville

1. Style State v. Robert Jason Burdick

2. Docket Number M2010-00144-SC-R11-CD

3. Lower Court Decision Link <http://www.tncourts.gov/sites/default/files/burdickropn.pdf>

4. Lower Court Summary Appellant, Robert Jason Burdick, was indicted for several offenses by the Davidson County Grand Jury in May of 2008. At issue herein is Appellant's indictment for aggravated rape allegedly occurring on March 1, 1994. After a trial in October of 2009, Appellant was found not guilty of aggravated rape but guilty of the lesser included offense of attempted aggravated rape. As a result, Appellant was sentenced to ten years in incarceration, to be served consecutively to sentences for other convictions that are unspecified in the record herein. On appeal, Appellant argues that the issue before this Court is whether his conviction is barred by the statute of limitations. We hold that the affidavit of complaint in this case establishes probable cause and that a John Doe warrant with a DNA profile as identifying information is sufficient to commence a prosecution. Therefore, from the record before us it appears that the prosecution against Appellant commenced with the issuance of a valid arrest warrant, well within the applicable statute of limitations. Accordingly, the judgment of the trial court is affirmed.

5.	Status	Application granted on 04/11/12
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1.	Style	State v. Christine Caudle
2.	Docket Number	M2010-01172-SC-R11-CD
3.	Lower Court Decision Link	http://www.tncourts.gov/sites/default/files/caudlechristineopn.pdf
4.	Lower Court Summary	The Defendant, Christine Caudle, pled guilty to reckless endangerment with a deadly weapon and theft of merchandise over \$500, Class E felonies. See T.C.A. §§ 39-13-103, 39-14-146 (2010). She was sentenced as a Range II, multiple offender to three years for each conviction, to be served concurrently. On appeal, she contends that the trial court erred by failing to apply applicable mitigating factors and by failing to grant probation or an alternative sentence. We affirm the judgments of the trial court.
5.	Status	Application granted 04/12/12
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1.	Style	State of Tennessee v. Wayne Lamar Donaldson, Jr.
2.	Docket Number	M2010-00690-SC-R11-CD
3.	Lower Court Decision Link	http://www.tncourts.gov/sites/default/files/donaldsonwaynelamaropn.pdf
4.	Lower Court Summary	In an indictment returned by the Davidson County Grand Jury, Defendant Wayne Lamar Donaldson, Jr., was charged with possession of, with intent to sell or deliver, twenty-six grams or more of a substance containing cocaine within a drug-free school zone. The drugs were seized after a traffic violation stop of Defendant by an officer of the Metropolitan Davidson County Police Department. Defendant filed a motion to suppress all evidence seized during the stop. Following an evidentiary hearing, the trial court entered an order which granted the motion, and subsequently entered an order dismissing the indictment based upon the State's acknowledgment that it could not proceed to trial without the evidence. The State has appealed. Based upon the finding of facts made by the trial court and the application of the law to those facts, we affirm the judgment of the trial court.
5.	Status	Granted 2/15/12; Appellee's brief filed 04/12/12
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1.	Style	State of Tennessee v. Travis Kinte Echols
2.	Docket Number	E2009-01697-SC-R11-CD

3. Lower Court Decision Link http://www.tncourts.gov/sites/default/files/state_of_tennessee_v_travis_kinte_echols.pdf
4. Lower Court Summary
A Knox County Criminal Court jury convicted the appellant, Travis Kinte Echols, of first degree felony murder committed during the perpetration of robbery, and the trial court sentenced him to life. On appeal, the appellant raises numerous issues, including that the evidence is insufficient to support the conviction. Finding no errors that warrant reversal, we affirm the judgment of the trial court.
5. Status
To be heard May 23, 2012 at Boys' State S.C.A.L.E.S. project; Granted 10/21/11; Appellant's brief filed 11/21/11; After two extensions, Appellee's brief filed 02/21/12; Appellant's reply brief filed 03/06/12 .

1. Style
State of Tennessee v. Michael Farmer and Anthony Clark
2. Docket Number
W2009-02281-SC-R11-CD
3. Lower Court Decision Link:
http://www.tncourts.gov/sites/default/files/state_of_tennessee_v_michael_farmer_and_anthony_clark.pdf
AND
http://www.tncourts.gov/sites/default/files/state_of_tennessee_v_michael_farmer_and_anthony_clark_-_concurring_dissenting.pdf
4. Lower Court Summary
The defendants Michael Farmer and Anthony Clark, were convicted of especially aggravated robbery, a Class A felony, and aggravated robbery, a Class B felony. They were each sentenced to fifteen years for the especially aggravated robbery and to a concurrent eight years for aggravated robbery, for a total effective sentence of fifteen years. On appeal, both defendants claim that the evidence is insufficient to support their convictions, asserting that no evidence put forth at their trial established that they actually took money from either victim. Defendant Clark further claims that the straight, pass-through bullet wound inflicted on one victim's left thigh failed to pose a substantial enough risk of death to qualify as a serious bodily injury of the type necessary to sustain a conviction for especially aggravated robbery. Defendant Farmer further claims that the trial court erred by failing to sentence him as an especially mitigated offender. After carefully reviewing the defendants' arguments and the record evidence, we affirm the judgments of the trial court.
5. Status
To be heard May 31, 2012, Girls' State S.C.A.L.E.S. project; Appellant's brief filed 01/03/12; After extension, Appellee's brief filed 02/13/12.

1. Style
State of Tennessee v. Kenneth D. Hubanks
2. Docket Number
W2007-00906-SC-R11-CD

- 3. Lower Court Decision Link <http://www.tncourts.gov/sites/default/files/hubankskopn.pdf>

- 4. Lower Court Summary

A Hardin County grand jury indicted the Defendant, Kenneth D. Hubanks, for possession with intent to sell more than .5 grams of cocaine, possession with intent to sell more than one-half ounce of marijuana, and unlawful possession of drug paraphernalia. The Defendant filed a motion to suppress the evidence, obtained by execution of a search warrant upon his residence, which the trial court denied. The Defendant entered a plea of nolo contendere to all of the charges but reserved a certified question of law pursuant to Tennessee Rule of Criminal Procedure 37(b)(2) as to whether the search warrant established probable cause to search his residence. After review, we conclude that the Defendant has failed to comply with the strict requirements of Tennessee Rule of Criminal Procedure 37(b)(2). Accordingly, the appeal is dismissed.

- 5. Status

Granted 2/15/12; Appellant's brief filed 03/19/12

- 1. Style

State vs. Nickolus L. Johnson

- 2. Docket Number

E2010-00172-SC-DDT-DD

- 3. Lower Court Decision Link <http://www.tncourts.gov/sites/default/files/johnsonnickolusopn.pdf>

- 4. Lower Court Summary

A Sullivan County jury convicted the Defendant, Nickolus L. Johnson, of premeditated firstdegree murder, see Tenn. Code Ann. § 39-13-202(a)(1) (2006), for the shooting death of Officer Mark Vance of the Bristol Police Department. Following penalty phase proceedings, the jury found the presence of the following two aggravating circumstances: (1) that the defendant previously had been convicted of one or more felonies whose statutory elements involved the use of violence to the person; and (2) that the defendant knew or should have known when he committed the murder that the victim was a law enforcement officer engaged in the performance of his official duties. See Tenn. Code Ann. § 39-13-204(i)(2), (9) (2006). After finding that these aggravating circumstances outweighed any mitigating factors presented by the defense, the jury sentenced the Defendant to death. See Tenn. Code Ann. § 39-13-204(g)(1) (2006). In this appeal, the Defendant challenges both his conviction and accompanying death sentence. He raises the following issues for our review: (1) whether the evidence presented during the guilt phase was sufficient to support his conviction; (2) whether Tennessee's death penalty statute violates article I, section 19 of the Tennessee Constitution; (3) whether the exclusion of jurors from the jury based on their views on the death penalty violates article I, sections 6 and 19 of the Tennessee Constitution; (4) whether the trial court erred in admitting into evidence the videotape of the Defendant taken in Officer Graham's patrol car immediately following the Defendant's arrest; (5) whether the trial court erred in failing to require defense counsel to present mental health mitigation evidence despite the Defendant's objection to the presentation of such evidence; (6) whether individual and cumulative instances of prosecutorial misconduct during closing argument at the penalty phase denied the Defendant his right to a fair trial and should have resulted in

the trial court declaring a mistrial; (7) whether the trial court erred in denying defense counsel's requests for special jury instructions during the penalty phase in response to the prosecutor's assertion during closing that the Defendant had failed to express remorse; (8) whether the trial court erred in denying the Defendant's oral motion for a change of venue based on the effect pretrial publicity in the case had on potential jurors; (9) whether the trial court erred in denying defense counsel's request for authorization of funds with which to hire an expert to support the claim that pretrial publicity in the case required a change of venue in order to protect the Defendant's right to a fair trial; and (10) whether the trial court erred in denying defense counsel's request for additional peremptory challenges during jury selection. Following our review of the record, and our mandatory review of the sentence, see Tenn. Code Ann. § 39-13-206(c)(1) (2006), we affirm the judgments including the sentence of death.

5.	Status	Transferred to the Supreme Court 3-21-12.
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1.	Style	David Keen v. State
2.	Docket Number	W2011-00789-SC-R11-PC
3.	Lower Court Decision Link	Unavailable
4.	Lower Court Summary	Unavailable
5.	Status	To be heard May 31, 2012, Girls' State S.C.A.L.E.S. project; Appellant's brief filed 02/13/12, after extension. State's brief due 04/23/12, after second extension.
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1.	Style	State v. Florinda Lopez
2.	Docket Number	No. M2008-02737-SC-R11-CD
3.	Lower Court	http://www.tncourts.gov/sites/default/files/OPINIONS/TCCA/PDF/103/State%20vs%20Nelson%20Aguilar%20Gomez%20and%20Florinda%20Lopez.pdf
4.	Lower Court Summary	The Defendants, Nelson Aguilar Gomez and Florinda Lopez, were charged with: Count One, first degree felony murder during the perpetration of aggravated child abuse; Count Two, first degree felony murder during the perpetration of aggravated child neglect; Counts Three and Four, aggravated child abuse occurring on or about March 3, 2007; and Count Five, aggravated child abuse occurring in February 2007. Aggravated child abuse is a Class A felony. See Tenn. Code Ann. § 39-15-402(b). The Defendants were tried jointly before a jury. Defendant Gomez was convicted of both counts of felony murder, Count One merging into Count Two, and sentenced to life with the possibility of parole. He was also convicted of all three counts of aggravated child abuse and sentenced as a violent offender to twenty-five years for each conviction. The trial court ordered him to serve his Count Three and Count Four aggravated child abuse sentences concurrently with each other and his life

sentence, and ordered him to serve his Count Five aggravated child abuse sentence consecutively to his other sentences, for a total effective sentence of life plus twenty-five years in the Department of Correction. On her felony murder charges, Defendant Lopez was convicted of two counts of the lesser-included offense of facilitation of first degree murder, a Class A felony. See Tenn. Code Ann. § 39-11-403, -13-204(a). Count One was merged into Count Two. Defendant Lopez was also convicted of aggravated child abuse under Counts Three and Four. She was acquitted of aggravated child abuse as charged in Count Five. She was sentenced as a Range I, standard offender to twenty-five years for her facilitation of first degree murder conviction and sentenced as a violent offender to twenty-five years for each of her two aggravated child abuse convictions. The trial court ordered her to serve these sentences concurrently, for a total effective sentence of twenty-five years in the Department of Correction. In this direct appeal, Defendant Gomez contends that: (1) the trial court erred in admitting evidence of certain prior bad acts, in violation of Tennessee Rule of Evidence 404(b); (2) the State presented evidence insufficient to convict him and that the trial court therefore erred in failing to grant his motion for a judgment of acquittal; and (3) the trial court erred in ordering consecutive sentencing. Defendant Lopez contends that: (1) the trial court erred in denying her pre-trial motion to include non-citizens on the jury; (2) the trial court erred in preventing her from introducing an entire statement she made to police after the State impeached her using part of that statement; (3) the trial court erred in admitting evidence of Defendant Gomez's prior bad acts; (4) the State presented evidence insufficient to convict her; and (5) the trial court erred in imposing the maximum sentence for each of her convictions. After our review, we reverse and dismiss Defendant Gomez's Count Five conviction of aggravated child abuse. In all other respects, we affirm the judgments of the trial court.

5.	Status	Heard 06/03/11 in Nashville
1.	Style	State v. Charlers E. Lowe-Kelley
2.	Docket Number	M2010-00500-SC-R11-CD
3.	Lower Court Decision Link	http://www.tncourts.gov/sites/default/files/state_of_tennessee_v_charles_e_lowe-kelley.pdf
4.	Lower Court Summary	A Maury County Circuit Court jury convicted the defendant, Charles E. Lowe-Kelley, of two counts of first degree premeditated murder, two counts of first degree felony murder, and nine counts of attempted first degree murder. At sentencing, the trial court imposed consecutive sentences of life with the possibility of parole for each first degree premeditated murder conviction, merged the first degree felony murder convictions into the first degree premeditated murder convictions, and imposed concurrent sentences of 15 years' incarceration for each attempted first degree murder conviction to be served concurrently with the life sentences. On appeal, in addition to contesting the sufficiency of the evidence, the defendant contends that the trial court erred by (1) denying his motion for a continuance, (2) allowing a juror to

remain on the jury who expressed an opinion about the case, (3) admitting evidence without establishing a proper chain of custody, (4) admitting a taperecorded conversation between the defendant and a separately-tried co-defendant, and (5) imposing consecutive sentences. Because the defendant failed to file a timely motion for new trial, all issues except the sufficiency of the evidence and sentencing are waived. Furthermore, the untimely motion for new trial rendered the notice of appeal untimely. In the interest of justice, however, we waive the timely filing of the notice of appeal and review the remaining issues. Following our review, we affirm the judgments of the trial court.

5.	Status	Heard 02/15/12 in Nashville.
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1.	Style	State of Tennessee v. Kimberly Mangrum
2.	Docket Number	M2009-01810-SC-R11-CD
3.	Lower Court Decision Link	http://www.tncourts.gov/sites/default/files/mangrumkimberlyopn.pdf
4.	Lower Court Summary	Defendant, Kimberly Mangrum, was indicted by the Dickson County Grand Jury for especially aggravated burglary, especially aggravated kidnapping, first degree premeditated murder, felony murder, and four counts of criminal conspiracy, related to the commission of each of those offenses. Following a jury trial, Defendant was convicted of aggravated burglary, especially aggravated kidnapping, attempted first degree premeditated murder, and felony murder. Her conviction for attempted first degree premeditated murder was merged into her felony murder conviction, and she was sentenced to life imprisonment for her first degree felony murder conviction, twenty-five years for especially aggravated kidnapping, and six years for aggravated burglary, with the sentences to be served concurrently. In this direct appeal, Defendant challenges the sufficiency of the convicting evidence and asserts that the trial court erred by not dismissing the indictment following what, Defendant contends, was the State’s misuse of the grand jury proceedings. After a thorough review of the record, we affirm the judgments of the trial court.
5.	Status	Granted 03/07/12; Appellant’s brief filed on 04/12/12.
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1.	Style	State of Tennessee v. James David Moats
2.	Docket Number	E2010-02013-SC-R11-CD
3.	Lower Court Decision Link	http://www.tncourts.gov/sites/default/files/moatsjamesdavidopn.pdf
4.	Lower Court Summary	The defendant, James David Moats, stands convicted of driving under the influence (“DUI”), fourth or greater offense, a Class E felony. The trial court sentenced him as a Range I, standard offender to two years in the Tennessee Department of Correction. On appeal, the defendant argues that the trial court

erred by denying his motion to suppress and motion for judgment of acquittal. Following our review, we conclude that under the facts of this case the police officer seized the defendant when she pulled up behind the defendant's parked vehicle and activated her blue emergency lights. We further conclude that the officer did not have a reasonable suspicion of criminal activity to justify the seizure. As such, the trial court erred by denying the defendant's motion to suppress evidence, and we reverse the judgment of the trial court.

5. Status Granted 2/15/12; Appellant's brief filed 03/16/12; Appellee's brief due 06/14/12 after extension; Continued from the May Docket in Knoxville

1. Style Brandon Mobley v. State of Tennessee

2. Docket Number E2010-00379-SC-R11-PC

3. Lower Court Decision Link <http://www.tsc.state.tn.us/sites/default/files/mobleybrandonopn.pdf>

4. Lower Court Summary
 The petitioner, Brandon Mobley, appeals from the Knox County Criminal Court's denial of his petition for post-conviction relief challenging his 2005 convictions of two counts of premeditated first degree murder, especially aggravated robbery, and setting fire to personal property for which he is now serving two consecutive life sentences plus 19 years in the custody of the Department of Correction. On appeal, the petitioner contends that the post-conviction court erred by denying his petition for post-conviction relief based upon allegations that he was denied the effective assistance of counsel and other constitutional deprivations. Because we determine that the petitioner is entitled to relief on the issue of the ineffective assistance of counsel concerning the use of expert testimony, we reverse the judgment of the post-conviction court.

5. Status Granted 1/10/12; Appellant's brief filed 02/27/12; Appellee's brief due 05/09/12 after extension; Continued from the May Docket in Knoxville

1. Style State v. Corinio Pruitt

2. Docket Number W2009-01255-SC-R3-DD

3. Lower Court Decision Link http://www.tncourts.gov/sites/default/files/state_of_tennessee_v_corinio_pruitt.pdf

4. Lower Court Summary
 Capital Appellant, Corinio Pruitt, appeals as of right from his conviction for first degree felony murder and his sentence of death resulting from the August 2005 death of Lawrence Guidroz. On February 29, 2008, a Shelby County jury found the Appellant guilty of one count of second degree murder and one count of first degree felony murder, and the trial court merged the conviction for second degree murder with the first degree murder conviction. At the conclusion of the penalty phase, the jury unanimously found the presence of

three statutory aggravating circumstances; specifically, (1) the defendant had previously been convicted of one or more felonies involving the use of violence, (2) the murder was knowingly committed while the defendant had a substantial role in committing a robbery, and (3) the victim was seventy (70) years of age or older. See T.C.A. § 39-13-204(i)(2), (7), (14). The jury further determined that these three aggravating circumstances outweighed any mitigating circumstances and imposed a sentence of death. The trial court approved the sentencing verdict. On appeal, the Appellant presents the following issues for our review: (1) whether the trial court erred in failing to find the Appellant intellectually disabled and ineligible for the death penalty, (2) whether the evidence is sufficient to support a conviction for first degree felony murder, (3) whether the trial court erred in permitting the introduction of the autopsy photographs of the victim, (4) whether application of the (i)(7) aggravating circumstance is constitutional, (5) whether the evidence is sufficient to support application of the (i)(7) aggravator, and (6) whether the sentence of death is proportionate in the present case. After a thorough review of the record and the applicable law, we affirm the judgment of the trial court.

5. Status To be heard June 2012 in Nashville; Docketed 07/11/11; Appellant’s initial brief filed 11/04/11; State’s brief filed 01/06/12

1. Style State of Tennessee v. Wanda Russell

2. Docket Number M2010-00852-SC-R11-CD

3. Lower Court Decision Link http://www.tncourts.gov/sites/default/files/state_of_tennessee_v_wanda_f_russell.pdf

4. Lower Court Summary A Rutherford County jury convicted Appellant, Wanda F. Russell, of three counts of theft over \$1,000. Prior to trial, the State filed a notice that it was intending to introduce Appellant’s prior convictions to impeach her testimony. At the conclusion of a jury-out hearing during trial, the trial court concluded that the State could use Appellant’s prior convictions for passing worthless checks pursuant to Rule 609(a)(3) of the Tennessee Rules of Evidence to impeach Appellant. Appellant elected not to testify. She now appeals to this Court arguing that the trial court erred in determining that her prior convictions were admissible for impeachment. We have reviewed the record on appeal. We have concluded that the trial court did not err in ruling that the prior convictions were appropriate for impeachment of Appellant. Therefore, we affirm the judgments of the trial court.

5. Status Appellant’s brief filed 12/16/11; Appellee’s brief filed 01/18/12.

1. Style State v. Hubert Glenn Sexton

2. Docket Number E2008-00292-SC-DDT-DD

3. Lower Court Decision Link http://www.tncourts.gov/sites/default/files/state_vs_hubert_glenn_sexton.pdf

4. Lower Court
Summary

In the late evening of May 20, 2000, Stanley Goodman and Terry Sue Goodman were shot and killed in their home in Scott County, Tennessee. This occurred shortly after B.G., the Appellant's minor stepdaughter, had reported to authorities that the Appellant had sexually abused her. Stanley Goodman, one of the victims, was B.G.'s biological father. The Appellant denied the allegations of sexual abuse and believed that Stanley Goodman was responsible for B.G. falsely accusing him of sexual abuse. The proof at trial showed that the Appellant shot and killed both victims while they were in their bedroom. The Appellant admitted his actions to several witnesses who testified at trial.*1 A Scott County jury found the Appellant Hubert Glenn Sexton guilty of two counts of first degree murder arising from the deaths of Stanley and Terry Goodman. Following penalty phase, the jury found the presence of one statutory aggravating circumstance, that the murder was committed for the purpose of avoiding, interfering with, or preventing a lawful arrest or prosecution of the defendant or another, and that this aggravator outweighed any mitigating factors. See T.C.A. § 39-13-204(i)(6). The jury imposed sentences of death. Appellant Sexton seeks review by this court of both his convictions for first degree murder and his sentences of death. He raises the following issues for our review:

- I. Whether the trial court erred in denying a motion for change of venue;
 - II. Whether the trial court erred in failing to properly admonish the jury before and during trial;
 - III. Whether the trial court erred in failing to adequately voir dire the jury regarding extrajudicial information;
 - IV. Whether the trial court erred in failing to excuse certain jurors for cause;
 - V. Whether the trial court erred in admitting allegations of child sexual abuse;
 - VI. Whether the trial court erred in admitting testimony regarding the Appellant's willingness and later refusal to take a polygraph examination;
 - VII. Whether the trial court erred in admitting statements made by the Appellant's wife;
 - VIII. Whether the trial court erred in admitting evidence that was similar to the murder weapon;
 - IX. Whether the trial court erred in admitting evidence of an unrelated speeding arrest;
 - X. Whether the trial court erred in admitting evidence that Appellant alleges was unlawfully obtained from his vehicle;
 - XI. Whether the trial court erred in admitting evidence relating to the preparation of Appellant's IRS tax forms;
 - XII. Whether individual and cumulative instances of prosecutorial misconduct denied him a fair trial;
 - XIII. Whether the convicting evidence was sufficient to support his convictions;
 - XIV. Whether the verdict was contrary to the weight of the evidence;
 - XV. Whether Tennessee's death penalty scheme is constitutional; and
 - XVI. Whether the trial court erred in denying the motion for new trial based on cumulative error.
- Following our review, we affirm the judgments of the trial court.

5. Status

Heard 02/15/12 in Nashville

1.	Style	State of Tennessee v. Steven Q. Stanford
2.	Docket Number	E2010-01917-SC-R11-CD
3.	Lower Court Decision Link	http://www.tncourts.gov/sites/default/files/state_of_tennessee_v_steven_q_stanford.pdf
4.	Lower Court Summary	The defendant, Steven Q. Stanford, was convicted by a Campbell County jury of one count of initiation of a process to manufacture methamphetamine, a Class B felony, and one count of possession of drug paraphernalia, a Class A misdemeanor. Following a sentencing hearing, the defendant was sentenced, as a Range III offender, to serve thirty years in the Department of Correction. On appeal, he raises the single issue of sufficiency of the evidence. Following review of the record, we find that the evidence presented at trial is sufficient to support the convictions, and we affirm the judgments of the trial court.
5.	Status	Appellant's brief filed 01/04/12; After extension, Appellee's brief filed 03/08/12; To be heard 05/08/12 in Knoxville

1.	Style	State of Tennessee v. Carl J. Wagner
2.	Docket Number	M2010-00992-SC-R11-CD
3.	Lower Court Decision Link	http://www.tncourts.gov/sites/default/files/state_of_tennessee_v_carl_j_wagner.pdf
4.	Lower Court Summary	A Davidson County Criminal Court jury convicted the defendant, Carl J. Wagner, of second degree murder, <i>see</i> T.C.A. § 39-13-210 (2006); first degree murder committed in the perpetration of an aggravated robbery, <i>see id.</i> § 39-13-202(a)(2); and especially aggravated robbery, <i>see id.</i> § 39-13-403. The trial court imposed concurrent sentences of 22 years' incarceration, life imprisonment, and 22 years' incarceration, respectively, and merged the conviction of second degree murder into the conviction of first degree murder. On appeal, the defendant challenges the sufficiency of the evidence to support his convictions. We determine that there is insufficient evidence to support the defendant's convictions of first degree murder committed in the perpetration of an aggravated robbery and especially aggravated robbery. We also determine, however, that there is sufficient evidence to support the defendant's conviction of second degree murder. Accordingly, we affirm the defendant's conviction in count one and remand that count for resentencing, and we reverse and dismiss the charges in counts two and three.
5.	Status	To be heard May 23, 2012, Boys' State S.C.A.L.E.S. Granted 1/11/12; Appellant's brief filed 03/07/12; Appellee's brief filed 04/13/12

1.	Style	Artis Whitehead v. State of Tennessee
2.	Docket Number	W2010-00784-SC-R11-PC
3.	Lower Court Decision Link	http://www.tncourts.gov/sites/default/files/whiteheadartisopn.pdf
4.	Lower Court Summary	The petitioner, Artis Whitehead, appeals from the denial of his untimely petition for post-conviction relief. The post-conviction court denied the petition after finding that due process concerns did not toll the statute of limitations. The petitioner argues that due process concerns should toll the statute of limitations because (1) appellate counsel still represented him when she sent a letter informing him of the incorrect deadline for filing his petition for post-conviction relief and (2) that incorrect information was a misrepresentation sufficient to cause due process concerns to toll the statute of limitations. Upon our careful review of the record, the parties' arguments, and the applicable law, we affirm the denial of post-conviction relief.
5.	Status	Granted 2/15/12; Appellant's brief due 03/16/12; Appellee's brief due 05/14/12 after extension

1.	Style	State of Tennessee v. Guy Alvin Williamson
2.	Docket Number	W2011-00049-SC-R11-CD
3.	Lower Court Decision Link	http://www.tncourts.gov/sites/default/files/williamsonguyopn.pdf
4.	Lower Court Summary	The defendant, Guy Alvin Williamson, was convicted by a Tipton County Circuit Court jury of being a convicted felon in possession of a handgun and possession of a firearm while under the influence of alcohol or a controlled substance. He was sentenced to an effective term of three years, suspended to probation. On appeal, he argues that the trial court erred in denying his motion to suppress the evidence and dismiss the indictment and that the evidence was not sufficient to support his conviction for convicted felon in possession of a handgun. After review, we affirm the judgments of the trial court.
5.	Status	To be heard 04/04/12 in Jackson; Granted 1/11/12; Appellant's brief filed 02/10/12; Appellee's brief due 03/15/12.

1.	Style	Cyrus Deville Wilson v. State of Tennessee
2.	Docket Number	M2009-02241-SC-R11-CO
3.	Lower Court Decision Link	http://www.tncourts.gov/sites/default/files/cyrus_deville_wilson_vs_state.pdf

http://www.tncourts.gov/sites/default/files/cyrus_deville_wilson_vs_state_dis.pdf

4.	Lower Court Summary	The Petitioner, Cyrus Deville Wilson, appeals as of right from the Davidson County Criminal Court's dismissal of his petition for a writ of error coram nobis. The Petitioner contends that the coram nobis court erred by summarily dismissing his petition without an evidentiary hearing. Following our review, we reverse the judgment of the coram nobis court and remand the Petitioner's case for an evidentiary hearing.
5.	Status	Heard 02/16/12 in Nashville
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1.	Style	Danny A. Stewart v. Gayle Ray, Commissioner
2.	Docket Number	M2010-01808-SC-R11-CV
3.	Lower Court Decision Link	http://www.tncourts.gov/sites/default/files/danny_a_stewart_v_gayle_ray_tdoc_commissioner.pdf
4.	Lower Court Summary	Danny A. Stewart, a prisoner serving multiple sentences, some concurrently and some consecutively, filed a petition for certiorari naming as respondents the Commissioner of the Department of Correction and heads of various other agencies allegedly responsible for determining his eligibility for parole (collectively referred to as "TDOC"). He alleges TDOC is incorrectly calculating his eligibility for parole in that it is basing its calculation on the aggregate consecutive sentences of 42 years, whereas the correct method is to calculate eligibility on each separate sentence so that he would start serving his next consecutive sentence as an "in custody" parolee of his earliest consecutive sentence. The trial court dismissed the case based on Stewart's failure "to exhaust his administrative remedies," i.e., by seeking a "declaratory order from TDOC before filing the present action." Stewart appeals. We vacate the order of dismissal and remand for further proceedings
5.	Status	Heard in Nashville 02/16/12.
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1.	Style	John O. Threadgill v. Board of Professional Responsibility
2.	Docket Number	E2012-00263-SC-R3-BP
3.	Lower Court Decision Link	Unavailable
4.	Lower Court Summary	Unavailable
5.	Status	Notice of Appeal Received 02/06/12; Notice of Rejection of Appeal Bond filed by Clerk on 04/10/12

1.	Style	<u>Earlene Waddle v. Lorene B. Elrod</u>
2.	Docket Number	M2009-02142-SC-R11-CV
3.	Lower Court Decision Link	http://www.tncourts.gov/sites/default/files/earlene_waddle_v_lorene_b_elrod_opn.pdf
4.	Lower Court Summary	The trial court's enforcement of a settlement agreement between the parties' attorneys is appealed on the sole basis that the Statute of Frauds precludes enforcement since the parties never signed any agreement and the settlement pertained to real property. Because the Statute of Frauds concerns the sale of real property interests and not settlement agreements touching upon real property interests, it is not a bar to enforcement of a settlement agreement. The trial court is affirmed on that issue. The trial court's assessment of court costs, however, is reversed as it differs from the parties' agreement.
5.	Status	Heard 02/15/12 in Nashville

1.	Style	Rheaetta F. Wilson, et al. v. Americare Systems, Inc., et al.
2.	Docket Number	M2011-00240-SC-R11-CV
3.	Lower Court Decision Link	http://www.tncourts.gov/sites/default/files/wilsonroprn.pdf
4.	Lower Court Summary	Decedent's next of kin filed this wrongful death action against an assisted living facility, two nurses, and the facility's management company for failure to provide proper care and treatment. This appeal concerns only the jury verdict and judgment finding the management company directly liable for failure to provide adequate staff at the assisted living facility. We find no material evidence to support a conclusion that any staffing deficiency proximately caused the decedent's death. We therefore reverse the judgment finding direct liability on the part of the management company.
5.	Status	Application granted 04/11/12

1.	Style	Walter Word v. Metro Air Services, Inc. et al
2.	Docket Number	M2011-02675-SC-R9-WC
3.	Lower Court Decision Link	N/A

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| 4. | Lower Court Summary | N/A |
| 5. | Status | Granted 2/16/12; The trial court clerk must assemble and transmit the record pursuant to Tenn. R. App. P. 9(e); Briefs are due after the record is filed in accordance with Tenn. R. App. P. 29. |