

IN THE SUPREME COURT OF TENNESSEE  
AT NASHVILLE

FILED

06/15/2021

Clerk of the  
Appellate Courts

**IN RE: ADOPTION OF A NEW INTERIM RULE OF THE TENNESSEE  
SUPREME COURT FOR SPECIAL THREE-JUDGE PANELS**

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**No. ADM2021-00663**

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**ORDER**

On May 5, 2021, the General Assembly passed and on May 26, 2021, the Governor signed an act to amend Tennessee Code Annotated, Title 20, effective July 1, 2021, to add a new chapter providing for special three-judge panels and authorizing the Supreme Court to promulgate rules governing the practice and procedure of those panels. See 2021 Tenn. Pub. Acts, ch. 566 (H.B. 1130). The Court hereby amends the Rules of the Supreme Court of Tennessee to add new Rule 54, Interim Rule for Special Three-Judge Panels, in the form set out in the Appendix to this Order. This new Rule shall be effective July 1, 2021.

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

IT IS SO ORDERED.

PER CURIAM

**APPENDIX**

**TENN. SUP. CT. R. 54**

**INTERIM RULE FOR SPECIAL THREE-JUDGE PANELS**

## **Rule 54. Interim Rule for Special Three-Judge Panels**

### **Section 1. Applicability.**

This rule applies to civil actions filed in a trial court in this state in which the state, a department or agency of the state, or a state official acting in his or her official capacity is a defendant in a complaint that:

(a) challenges the constitutionality of a state statute, including a statute that apportions or redistricts state legislative or congressional districts; or an executive order; or an administrative rule or regulation; and

(b) includes a claim for declaratory judgment or injunctive relief.

Comment: This rule applies to amended complaints, counter-claims, and third-party complaints as well as complaints.

### **Section 2. Procedure for Initiating the Empaneling of a Special Three-Judge Trial Court.**

(a) The person or entity filing the action described in Section 1 shall provide notice of the complaint to the presiding judge of the judicial district in which the action is filed. The notice must be filed contemporaneously with the filing of the complaint, amended complaint, counter-claim, or third-party complaint and must be served on all parties to the case.

(b) The notice must:

(1) list all parties and, if available, counsel and complete contact information for counsel;

(2) state the cause number and style of the case, the trial court in which it is pending, and, if available, the name of the judge to whom it is assigned;

(3) summarize the dispute and all claims asserted against the state or a state official, department, or agency; and

(4) attach a copy of the complaint, amended complaint, counter-claim, or third-party complaint.

(c) Service of the notice shall comply with the Tennessee Rules of Civil Procedure applicable to service of the pleading with which the notice is filed.

(d) The clerk of the trial court in which the action is filed shall notify the presiding judge of any notice requesting a three-judge panel.

(e) A defendant as defined in Section 1 may request the empaneling of a special three-judge panel by providing notice consistent with the provisions of this rule within sixty (60) days of the date of service of the complaint, amended complaint, counter-claim, or third-party complaint.

(f) For matters pending before July 1, 2021, notice compliant with the provisions of subsection (b) must be filed by July 30, 2021.

(g) The filing of a notice under this rule stays all proceedings in the trial court until the Supreme Court appoints a three-judge panel as provided in Section 3.

### **Section 3. Action on Notice; Composition of the Special Three-Judge Panel Trial Court.**

(a) The presiding judge of the judicial district in which the notice was filed shall make an initial determination as to whether the action filed qualifies under the provisions of Section 1 requiring the empaneling of a special three-judge panel. Within ten (10) days of notification from the clerk of the trial court, the presiding judge shall notify the Supreme Court of the filing of the notice and the initial determination as to whether the action qualifies under the provisions of Section 1. The Supreme Court makes the final determination as to whether the action qualifies under the provisions of Section 1. If the Supreme Court determines that it does not, the Court shall remand the case to the original trial judge to whom the case was assigned. If the Supreme Court determines that it does, the Court shall then select two (2) trial judges of courts of record to sit with the judge to whom the case was originally assigned as a three-judge panel to hear and decide the case.

(b) The special three-judge panel will be composed of:

(1) the trial judge of the judicial district to which the case was originally assigned; and

(2) one trial judge from each grand division of the state other than the grand division in which the action was originally filed.

(c) The Supreme Court shall appoint one of the three judges to serve as the chief judge of the special three-judge panel.

(d) Should any member of the three-judge panel be disqualified or otherwise unable to serve on the panel, the Supreme Court shall appoint as a replacement another trial court judge from the same grand division as the judge being replaced, who shall serve by interchange, as provided in Rules 10B and 11 of the Tennessee Supreme Court Rules.

### **Section 4. Location of Special Three-Judge Panel; Governing Rules.**

(a) The courtroom of the trial judge to whom the case was originally assigned or another appropriate courtroom in the judicial district shall serve as the location for any in-person hearings before the special three-judge panel, unless otherwise directed by the Supreme Court.

(b) The use of technology, including telephone, teleconferencing, email, video conferencing or other means that do not involve in-person contact shall be permitted.

(c) Except as provided by this rule, the Tennessee Rules of Civil Procedure, Rules of Evidence, and Rules of Appellate Procedure and all other statutes and rules applicable to civil litigation in a trial court in this state apply to proceedings before a special three-judge panel.

**Section 5. Actions by Judges Serving on a Special Three-Judge Panel.**

(a) In the event of any disagreement on any matter before the special three-judge panel, the decision of the majority of the panel will prevail.

(b) A single judge of a special three-judge panel may not independently order a temporary restraining order, temporary injunction, or an order that finally disposes of a claim before the court.

**Section 6. Appeals.**

(a) Except as provided in subsection (b), the Court of Appeals shall have jurisdiction of appeals from the decisions of a special three-judge panel appointed pursuant to Tennessee Code Annotated § 20-18-101, et seq., and this rule. Notice of appeal shall be filed with the Court of Appeals in compliance with the Tennessee Rules of Appellate Procedure.

(b) In cases involving a constitutional challenge to a redistricting or apportionment plan enacted by the general assembly, an appeal by any party is to the Supreme Court within thirty (30) days from the entry of the judgment of the special three-judge panel.

(c) If the constitutional challenge raised in the complaint, amended complaint, counter-claim, or third-party complaint is denied or reversed on appeal, the chief judge of the three-judge panel shall promptly notify the Supreme Court of that fact. The Supreme Court may then dissolve the three-judge panel and re-assign the case to the trial judge to whom the case was originally assigned to preside over and decide any remaining causes of action.