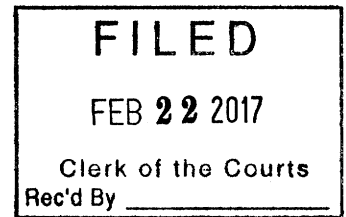


IN THE SUPREME COURT OF TENNESSEE  
AT NASHVILLE

IN RE: RULE 34  
RULES OF THE TENNESSEE SUPREME COURT



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No. ADM2017-00344

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**ORDER**

The Court is considering amending Rule 34 of the Rules of the Tennessee Supreme Court. The Court hereby publishes the proposed amendments for public comment and solicits written comments on the proposals from judges, lawyers, interested organizations, and the public. The proposed amendments are set out in the Appendix attached to this Order. The deadline for submitting written comments is Friday, March 24, 2017. Written comments may be e-mailed to [appellatecourtclerk@tncourts.gov](mailto:appellatecourtclerk@tncourts.gov) or mailed to

James M. Hivner, Clerk  
Re: Tenn. Sup. Ct. R. 34  
100 Supreme Court Building  
401 Seventh Avenue North  
Nashville, TN 37219-1407

and should reference the docket number set out above.

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

IT IS SO ORDERED.

PER CURIAM

## APPENDIX

### PROPOSED AMENDMENTS TO TENN. SUP. CT. R. 34

[New text is indicated by underlining/Deleted text is indicated by striking]

#### Rule 34. Policies and Guidelines Regarding Appellate–Judicial Records and Requesting Inspection of Public Records from the Clerk of the Appellate Courts.

##### (1) Right to Inspect Public Records

The public has a statutory right to inspect public records maintained by government agencies of state government. Accordingly, the public has the right to inspect public records maintained by the clerk of the appellate courts and clerks of the inferior courts unless the record has been submitted under seal or is the subject of a protective order. Requests to inspect public records maintained by the clerks of the ~~appellate~~–courts are, however, subject to reasonable requirements and restrictions intended to preserve the integrity of the record, the parties’ right to the record for the purpose of preparing their legal appellate papers, and the efficient operation of the ~~appellate~~–courts in accordance with Tenn. Code Ann. § 16-3-401.

##### (2)(A) Judicial Records

(A) For the purposes of these policies and guidelines, a “record” includes any record defined as a “public record” in Tenn. Code Ann. § 10-7-301(6)(1992) that has not been submitted under seal or that is not the subject of a protective order.

(B) The following judicial records are not public records:

(i) Unpublished drafts of judicial orders and opinions;

~~(ii) Written or electronic conference records, notes, memoranda, or other documents of a similar nature prepared by judges as part of the judicial decision-making process unless filed as part of the court record;~~

(iii) Copies, other than the original, of motions, petitions, briefs, and other similar documents filed with the clerks of the ~~appellate~~–courts that have been furnished to individual ~~appellate~~–judges for their personal use;

~~(iiiv) Written or electronic conference records, notes, memoranda, reports, or other documents of a similar nature prepared by a judge, courtan appellate court’s or judge’s staff, a judge’s staff, or the Administrative Office of the Courts on behalf of, or at the direction of, the court or judge. This includes written or electronic records, notes, memoranda, reports, or other documents of a similar nature created or received as part of a~~

~~court's~~ the judicial or administrative decision-making process unless filed as part of the court record;

(iv) All internal case management information except for information concerning the composition of appellate panels assigned to consider a particular case;

(vi) Information maintained by individual judges with regard to their recusal from particular cases ~~appeals~~ unless the information is filed as part of the court record or unless it is subject to disclosure pursuant to Tenn. Code Ann. §§ 8-50-501, 8-50-506 (~~1993 & Supp. 1998~~) or Tenn. Sup. Ct. R. 10;

(vii) Documents protected from disclosure by order or rule of court; and

(viii) Any other written or electronic record the disclosure of which would frustrate or interfere with the judicial function of the courts or potentially undermine the inherent constitutional powers granted to the court and recognized in Tenn. Code Ann. § 16-3-503.

### (3)(A) Requesting Judicial Records from the Clerk of the Appellate Courts

(A) All requests to inspect a public record maintained by the clerk of the appellate courts shall be in writing and shall be submitted to the office of the clerk of the appellate courts in the grand division where the case is pending or was filed. Requests to inspect all or any part of an appellate record in a case that has been submitted for disposition shall also contain a brief statement of the basis or reason for the request.

(B) Inspection of all or any part of an appellate record in a case that has been submitted for disposition shall be subject to such conditions as the court deems necessary to prevent undue delay and may be deferred until the matter currently pending before the court has been decided or resolved.

(C) The clerk of the appellate courts may dispense with the written request requirement in Section (3)(A) for persons requesting readily available case history and docketing information maintained in the clerk's office, such as the date of oral argument, the identities of the parties' lawyers, and other similar information.

~~(4)(A)~~ (D) The clerk of the appellate courts shall provide timely, supervised access to public records maintained by the clerk during the regular business hours of the clerk's office. No person requesting to inspect a public record, except for persons entitled to the appellate record under Tenn. R. App. P. 25(c), shall be permitted to remove the record from the clerk's direct custody and control.

~~(B)~~ (E) The clerk shall not be required to produce a public record that is not in the

clerk's possession or to request the return of all or any part of an appellate record from any person to whom the record has been transmitted in accordance with Tenn. R. App. P. 25(c).

\_\_\_~~(5)~~(F) Any person dissatisfied with the clerk's disposition of a request to inspect a public record may submit a request for review of the clerk's decision to the appropriate appellate court. The clerk shall transmit the request for review to the appropriate appellate court in a timely manner and shall promptly inform the requesting party of the court's disposition of the request for review.

\_\_\_~~(6)~~(A)(G) All requests to inspect a public record maintained by the clerk of the appellate courts and requests for review of the clerk's disposition shall be treated as administrative matters for which no filing fee shall be collected.

\_\_\_~~(B)~~(H) Parties requesting to inspect a public record maintained by the clerk of the appellate court may request a copy of the requested record. Copies shall be provided within a reasonable time, taking into consideration the number of copies requested and the clerk's other duties and responsibilities. The clerk shall charge a fee for preparing or copying records maintained in the clerk's office in accordance with Tenn. Code Ann. § 8-21-501-~~(1993)~~.