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Tennessee Supreme Court Reverses Decision in *Hannan v. Alltel Publishing*

As an employer in Tennessee, your burden in defending employment cases in Tennessee just got a little lighter. Prior to trial, you have a right to file a Motion for Summary Judgment. Filing a summary judgment motion is a procedure you can use to ask the court to dismiss your case when the employee cannot establish the elements of his or her claim. In essence, you are saying that the case is so sided in your favor that there is no need to go to a jury. Juries can be unpredictable with even the best facts, so motions for summary judgments are frequently implemented as a method to avoid a jury trial.

Since 2008, motions for summary judgment have been difficult to win in Tennessee. This is because in the 2008 case, *Hannan v. Alltel Publishing Co.*, the Tennessee Supreme Court created a very demanding standard for winning such motions. In *Hannan* the Court held that in order for the party asking for summary judgment to succeed, that party must either affirmatively *disprove* an essential element of the other party's claim or establish an affirmative defense. Essentially, as an employer defending against an employee's claim, you had to prove a negative. This is never an easy thing to accomplish. In fact, the *Hannan* ruling created such a high bar for defendants/employers that in 2011, the Tennessee legislature attempted to legislatively overrule the court in *Hannan* and require Tennessee to follow the much less difficult rule followed by the federal courts. On Monday, the Tennessee Supreme Court reversed its decision in *Hannan*.

In *Rye v. Women's Care Center of Memphis*, the Court found that the federal rule on summary judgment was more appropriate. Now, under the federal rule and the new Tennessee rule, summary judgment is proper if the party asking for summary judgment can show that the other party cannot meet an element of his or her claim. In other words, if you, as an employer, can show that the employee suing has *failed to show* an element of his or her claim, you are entitled to summary judgment. Under the *Hannan* standard,

an employer would have had to show that there was no way that the employee *could ever* show an element of his or her claim. This seems like a small change, but it is significant. It is much easier to point out what the employee failed to show than it is to prove that the employee *could never show it*.

For more information regarding this legal update, please contact [Jessica Hill](#), [Mekesha Montgomery](#) or any other attorney in Frost Brown Todd's [Labor and Employment](#) Practice Group.

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