

# PUBLICATION

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## Tennessee Supreme Court Modifies Summary Judgment Standard

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On October 26, 2015, the Tennessee Supreme Court returned to a summary judgment standard consistent with the Federal Rules of Civil Procedure in a Memphis health care liability case. In *Rye v. Women's Care Center of Memphis*, the Court held that when a party moves for summary, its burden can be satisfied by (1) negating an element of the adverse party's claim or (2) by demonstrating that the other party's evidence at the summary judgment hearing is insufficient to establish that party's claim or defense.

The standard abandoned by the court had been widely criticized by practitioners and academics. The Tennessee General Assembly enacted a statute which adopted the federal standard, however, under the doctrine of separation of powers, the court was not bound to follow it. This decision brings the common law into line with the statute. (See Tenn. Code Ann. 20-16-101.) The decision was written by Justice Clark with Chief Justice Lee and Justice Bivens writing their own concurring opinions. Justice Wade dissented and Justice Kirby did not participate.

If you have any questions regarding the Modified Summary Judgment Standard, please contact Buck Lewis, Baker Donelson Appellate Practice Group Chair and author of this alert.