

Tennessee Litigation Update: TRCP 6.01 and Statutes of Limitation

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Media Contact

Erica Gianetti

Marketing & Communications Supervisor

erica.gianetti@mgclaw.com

On January 8, 2016, Jack and Jill file a personal injury complaint in the local circuit court alleging in a personal injury case that “[t]he Plaintiffs’ injuries occurred on January 7, 2015. January 7, 2016 is not a holiday, a weekend, and the day is bright and sunny. The court clerk’s office is open for business. The complaint alleges various non-specific personal injuries as a result of the alleged accident, but does not contain any allegation regarding property damage or any other legal theory outside of damages stemming from the Plaintiffs’ alleged personal injuries and/or loss of consortium. The Defendant files a motion to dismiss alleging that the statute of limitations ran, barring the lawsuit. Plaintiffs argue that Tennessee Rule of Civil Procedure 6.01, by its language grants an extra day.

Does it?

No. In Tennessee, the statute of limitations for personal injury claims is one year from the date on which the cause of action accrues. *Tenn. Code Ann. § 28-3-104*. The statute provides, in pertinent part, as follows:

(a) The following actions shall be commenced within one (1) year after the cause of action accrued:

(1) Actions for libel, for injuries to the person, false imprisonment, malicious prosecution, breach of marriage promise. *Tenn. Code Ann. § 28-3-104(a)(1) (1972)*.

TRCP 6.01 is not an easy read. However, the calculation of time with regard to the statute of limitations is governed by Tenn. R. Civ. P. 6.01 which provides:

“In computing any period of time prescribed or allowed by these rules, by order of court, or by any applicable statute, *the date of the act, event or default after which the designated period of time begins to run is not to be included. The last day of the period so computed shall be included unless it is a Saturday, a Sunday or a legal holiday as defined in Tenn. Code Ann. § 15-1-101*, or, when the act to be done is the filing of a paper in court, a day on which the office of the court clerk is closed or on which weather or other conditions have made the office of the court clerk inaccessible, in which event the period runs until the end of the next day which is not one of the aforementioned days. When the period of time prescribed or allowed is less than eleven days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation.”

Tenn. R. Civ. P. 6.01. (emphasis added).

Taken together, Tenn. Code Ann. § 28-3-104(a)(1) and sec. 1-3-102 (“Computation of time”), Tenn. R. Civ. P. 6.01 dictates that “the last day to file a personal injury action in Tennessee is the anniversary date of the accident, unless that date is one of the dates expressly excluded by Rule 6.01.” *Smith v. Hose*, No. 03A01-9501-CV-0006, 1995 Tenn. App. LEXIS 410, *4 (Tenn. Ct. App. June 21, 1995) (citing *McCleary v. Morgan*, 60 Tenn. App. 578, 449 S.W.2d 440 (Tenn. App. 1968); *West v. Cincinnati, N.O. & T.P. Ry. Co.*, 108 F.Supp. 276 (E.D. Tenn. 1952) (applying Tennessee law); *Coleman v. Dooley*, 1991 Tenn. App. Lexis 29 (Tenn. App. January 18, 1991)). The *Smith* Court held that a complaint filed on the day *after* the anniversary date of a motor vehicle accident was time-barred. *Id.* Similarly the Plaintiffs’ Complaint in the above example is time-barred because it was filed on the first day *after* the anniversary date of the personal injury accident at issue. None of the exceptions within the purview of Tenn. R. Civ. P. 6.01 are present. January 7, 2016, the date the complaint should have been filed was on a non-holiday, week day of business and meets no other exceptions set forth in TRCP 6.01. See *Tucker v. U.S.*, No. 3:06-cv-282, 2006 WL 2323252, *1 (E.D. Tenn. Aug. 9, 2006); *Ross v. Artuz*, 150 F.3d 97, 103 (2nd Cir. 1998) (“When a statute of limitations is measured in years, the last day for instituting the action is the anniversary date of the start of the limitations period.”); *Merriweather v. City of Memphis*, 107 F.3d 396, 398 (6th Cir. 1997) (discussing the Tennessee personal injury statute of limitations and holding that for purposes of calculating a statute of limitation, the one-year period “ends on the same calendar date the following year”).

Legal holidays are set forth in T.C.A. sec. 15-1-101. One should be cautious in making sure the holiday is one recognized by the state of Tennessee, when filing in a state court. TRCP 6.01 is a confusing read because it is capable of being interpreted two ways. For instance, if the “day of” the accident is not counted, then it is easy to come to the conclusion that TRCP 6.01 “adds” another day to the year. The case law, however, rejects that argument. It would be better, perhaps, to simply rewrite TRCP 6.01 to say the day of the accident, etc., is included. That would make the rule clearer. It is not likely, however, that TRCP 6.01 will be amended. As such, it should be read in conjunction with case law interpreting it.

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ABOUT THE AUTHOR

joined MGC in May of 2017 to open the firm’s Knoxville, Tennessee office. His practice focuses on employment law, personal injury, including premises liability, automobile and trucking defense, as well as products liability and construction law defense. David has practiced law for over 25 years and strives to provide his clients with strategies to achieve the most successful outcome possible. David can be contacted by [email](#) or 865.243.2744.