

**LOCAL RULES OF PRACTICE FOR THE COURTS
OF RECORD OF
BENTON, CARROLL, DECATUR, HARDIN AND HENRY
COUNTIES, TENNESSEE
TWENTY-FOURTH JUDICIAL DISTRICT**

INTRODUCTORY STATEMENT

By virtue of the authority vested in the Circuit Judges and Chancellor of the courts of record of the Twenty-Fourth Judicial District of Tennessee, and for the purpose of providing uniformity of procedure in the courts in conformity with the Tennessee Rules of Civil and Criminal Procedure, the following rules are hereby adopted and promulgated. The Judge or Chancellor may deviate from these rules to whatever extent he/she deems appropriate in order to meet the ends of justice. These rules replace any rules previously adopted. To the extent any rule herein conflicts with the provisions of the Tennessee Rules of Civil Procedure or Criminal Procedure, the appropriate procedural rule of the Tennessee Rules of Civil Procedure or Criminal Procedure shall govern. These rules shall take effect 1st day of May, 2008.

RULE 1. RULES OF COURT: APPLICABILITY, PURPOSE AND DEFINITIONS

§ 1.01 Applicability

- a. **General Applicability.** Unless otherwise indicated by a particular rule, Rules 1 through 9 apply to all types of cases in the Circuit and Chancery Courts in the Twenty-Fourth Judicial District. When a rule applies only to a particular type of case, (e.g., civil cases or criminal cases), it applies to all cases of that type regardless of which court is hearing the case.
- b. **Rules Applicable to Civil Cases Only.** Rules 10 through 30 pertain only to civil cases in Circuit Court unless expressly stated otherwise in these rules.
- c. **Rules Applicable to Criminal Cases Only.** Rules 31 through 50 pertain only to criminal cases in Circuit Court unless expressly stated otherwise in these rules.
- d. **Rules Applicable to Chancery Cases Only.** Rules 51 through 69 pertain only to Chancery cases unless expressly stated otherwise in these rules.

§ 1.02 Purpose of Rules

These rules will be construed to secure simplicity in procedure, fairness in administration, and the elimination of unjustifiable expense and delay. The Judge or Chancellor will deviate from these local rules only in the exceptional cases when justice so requires.

§ 1.03 Definitions

The following definitions apply to terms used in these local rules:

*Clerk: The Circuit Court Clerk or the Clerk & Master of the Chancery Court, as applicable, or their designees.

*Tenn. R. Civ. P.: Tennessee Rules of Civil Procedure.

*Tenn. R. Crim. P.: Tennessee Rules of Criminal Procedure

§ 1.04 Citation

These rules may be cited as Local Rule _____.

RULE 2. THE PRESIDING JUDGE

The Presiding Judge, selected pursuant to T.C.A. § 16-2-509 and Rule 11 of the Rules of the Supreme Court of Tennessee, will supervise the administration of the trial courts.

RULE 3. ASSIGNMENT AND DISPOSITION OF CASES

§ 3.01 Initial Assignment and Disposition of Cases

The Judges of the various courts will adopt a method for the initial assignment of cases to a particular division.

§ 3.02 All Matters in the Same Division

Once a case has been assigned, all matters in the case will be heard in that division.

§ 3.03 Interchange of Judges

When necessary for the efficient administration of justice, a Judge may hear and determine any matter by interchange for another Judge without the necessity of transferring the case from one court to another or from one division to another.

§ 3.04 Transfer of Cases

The Presiding Judge may transfer a case from one court to another or from one division to another. The Judges and Chancellors of the Twenty-Fourth Judicial District may transfer cases among themselves by mutual consent except in cases of recusal. It is not necessary that the parties or their counsel consent to such a transfer.

§ 3.05 Motions to Transfer

A party requesting a transfer of a case will obtain a transfer order from the court to which the case is assigned. The party requesting the transfer must also obtain the signature of the transferee Judge on the transfer order.

§ 3.06 Consolidation of Cases

Cases must be assigned or transferred to the same division before they can be

consolidated. An Order to consolidate the cases must be obtained from the division to which the cases to be consolidated are assigned.

RULE 4. COURT SESSIONS AND COURTROOM PROCEDURE

- a. Court sessions may be held Monday through Fridays. The court may convene at any time as is necessary for the hearing of causes specially set.
- b. The Judge or Chancellor shall wear a judicial robe at all sessions of the Court. This requirement may be waived by the Judge or Chancellor at any informal hearing.
- c. All persons in the courtroom shall stand at the opening and closing of court.
- d. All papers shall be handed to the Judge or Chancellor by the Sheriff. No attorney shall approach the bench or witness stand except when directed by the Judge or Chancellor.
- e. There shall be no smoking in the courtroom, nor shall food or drink be brought into the courtroom.
- f. All attorneys and court attendants shall be appropriately dressed during court sessions; male attorneys shall wear coats and ties. All female attorneys shall wear attire of equal dignity.
- g. All litigants and witnesses shall wear appropriate shoes, attire and make a clean and neat appearance. Short pants, muscle shirts, halter tops and articles of clothing or attire with vulgar or patently offensive words or symbols are not allowed. Clothing should be worn so as not to detract from the decorum of the courtroom.
- h. Upon the Judge or Chancellor entering the courtroom preparatory to the formal opening of court, the Sheriff shall call the courtroom to order, directing all in attendance to stand, and upon being so instructed by the Court, shall open court in substantially the following manner:
"Hear Ye! Hear Ye! This court is now open - All persons having business with the court draw near, give attention and you shall be heard. Be seated, please." Thereupon the Judge or Chancellor and those in the courtroom shall be seated.
- i. Whenever anyone addresses the Court or is addressed by the Court, they shall rise and remain standing. Attorneys are required to stand while interrogating witnesses.
- j. Whenever the Judge or Chancellor is ruling, all persons in the courtroom shall remain seated and, if entering the courtroom, shall be seated until the Judge or Chancellor has finished ruling.
- k. While court is in session no one may photograph any of the proceedings without permission of the Court.
- l. Upon the Judge or Chancellor instructing the Sheriff to adjourn court for the day, the Sheriff shall direct all in attendance to stand and shall adjourn in the following manner: This Court is now adjourned.
- n. The Sheriffs of Benton, Carroll, Decatur, Hardin and Henry County are authorized and directed to employ all lawful and constitutional means necessary to insure the security of the courtrooms and all passages, corridors, rooms, and

points of ingress and egress thereto. Each Sheriff shall insure and maintain proper security for the protection of government property and the safety of the court, court personnel, attorneys and all persons in attendance thereof, whether as plaintiff, defendant, witness, or spectator. Each Sheriff may, circumstances requiring in his or her discretion, establish and promulgate reasonable regulations not inconsistent with this rule for purposes of carrying out its directives including, but not limited to, the search of all persons seeking to enter the various courtrooms of the Benton, Carroll, Decatur, Hardin and Henry County Courthouses. Anyone seeking to enter said courtrooms not consenting to a search of their person when requested by one lawfully authorized to conduct said search, shall not be admitted therein. Strip body searches are not authorized. Only authorized personnel serving the Court shall wear side-arms in the courtroom while court is in session. In the discretion of the Judge or Chancellor all persons who are legally authorized to carry a firearm because of their status as law enforcement officials may wear said firearms or must check their firearms with the Court Bailiff while they are in the courtroom, or with the nearest office of the Sheriff.

o. Counsel shall not place or leave upon the tables of the courtroom any hats, newspapers, magazines, or any other object, nor shall they engage in any conversation, consultation or other activity that may disturb the orderly procedure while Court is in session. The space within the bar is restricted to those persons whose presence is required for the orderly conduct of business.

RULE 5. ORDER OF BUSINESS

At the opening of court, orders or decrees may be presented. The court will then take up any uncontested matters. The calendar of the day shall be then called.

RULE 6. APPEARANCE AND CONDUCT OF COUNSEL

§ 6.01 Counsel of Record; Entry of Appearance

All counsel who have entered an appearance in a case will be counsel of record. Entry of an appearance will be made in one of the following ways:

1. a written request by counsel to the Clerk that an appearance be entered;
2. the filing of pleadings;
3. the filing of a formal notice of appearance;
4. appearance as counsel at an arraignment; or
5. appointment by the Court.

§ 6.02 Non-Tennessee Attorneys

The pro hac vice rules of the Tennessee Supreme court are incorporated herein by reference.

§ 6.03 Cases in Which a Local Attorney is a Party

In any action in which a Benton, Carroll, Decatur, Hardin or Henry County attorney is a real, rather than a nominal party, that fact shall be brought to the attention of the Judge by written notice, a copy of which shall be filed and delivered within thirty (30) days after the first responsive pleading in Circuit or Chancery Court, or the docketing of the case in Circuit or Chancery Court (whichever is sooner), and shall describe the nature of the case, state whether a jury has been demanded, and indicate whether or not the attorney-party intends to testify. The Court will then forthwith decide whether or not to request that a Judge from outside this Circuit be designated to hear the case, and will notify counsel for the parties of the decision. Nothing herein shall prevent counsel for either party from requesting that the court obtain designation of a Judge from outside this Judicial District.

§ 6.04 Withdrawal of Counsel

No attorney of record may withdraw in any case except on written motion and court order. All motions for leave to withdraw shall include the reasons requiring withdrawal (unless prohibited by the Code of Professional Responsibility) and the name and address of any substitute counsel. If substitute counsel has not been retained, that fact shall be set forth in the motion and the motion shall also set forth the name, address, and telephone number of the client, as well as the signature of the client approving the withdrawal. If there is no signature of the client indicating agreement with the withdrawal, such withdrawal will only be allowed after a hearing. A certificate of service shall notify the client of the time, date, and place of the hearing. Ordinarily, withdrawal will not be allowed if withdrawal will delay the trial of the action. If withdrawal is allowed in a case in which substitute counsel has not been retained, the party will be allowed a reasonable amount of time to acquire new counsel.

§ 6.05 Conduct of Counsel

- a. At trial, counsel will avoid use of first names and other expressions of familiarity with adult witnesses, jurors, opposing counsel, and all other persons present. During opening statements or closing argument, no juror will be addressed individually by name.
- b. Lawyers should request bench conferences only when necessary.
- c. Objecting counsel will state the legal grounds for an objection without argument or discussion. There shall be no speaking objections. Attorneys shall stand when making objections.
- d. Attorneys will stand while examining witnesses or addressing the jury or the court.
- e. No attorneys, parties, or any other person who has an interest in a case set for trial will engage in any kind of conversation with any juror serving in any court of record. Once the juror's service is complete and the juror is excused from jury service, attorneys may interview jurors consistent with Supreme Court Rule 8.

§ 6.06 Setting Attorney Fees

Whenever the amount of an attorney's fee is an issue, the attorney will file an affidavit setting forth an itemized statement of the services rendered, the time, a suggestion of the fee to be awarded along with a statement of other pertinent facts including but not limited to that required by the Rules of Professional Conduct and applicable case law, and such other information as may be requested by the court.

§ 6.07 Contacting Judge

Neither counsel nor a party to a pending action will communicate ex parte with the Judge before whom the matter is pending except consistent with the Code of Professional Conduct, the Code of Judicial Ethics, and Rule 13 of the Rules of the Supreme Court of the State of Tennessee.

RULE 7. FILING AND SERVICE OF PAPERS

§ 7.01 Filing with the Clerk

Except as provided in Rule 22, all papers, including pleadings, motions, and proposed judgments and orders, will be filed with or submitted to the Clerk. Papers should not be mailed to or left with the Judge except in the following circumstances:

1) when specifically authorized by these rules or by the Judge, or 2) to provide a courtesy copy for the Judge's review.

§ 7.02 Certificate of Service

All papers must contain a certificate of service showing the date of service and the name and address of the person or persons served.

§ 7.03 Signature of Counsel

All pleadings, orders, briefs and other papers submitted for consideration by the court will be personally signed by at least one attorney of record in her/his individual name and will show the style and number of the case, the general nature of the paper filed, and the name, street address and telephone number of the attorney filing the pleadings, and the filing attorney's Tennessee Supreme Court Registration Number.

RULE 8. PAPERS FILED IN TRIAL COURT

§ 8.01 Custody of the Files

The Clerk will have custody of all papers and records of the court. The Clerk will furnish copies of the content of files at a reasonable cost.

§ 8.02 Papers, Documents or Files Under Seal

All papers, documents and files shall be available for public inspection except as

specifically exempted by court order or statute. The motion seeking such an order must contain sufficient facts to overcome the presumption in favor of disclosure.

RULE 9. MEDIA GUIDELINES

The media guidelines adopted by the Tennessee Supreme Court are incorporated herein by reference.

RULES APPLICABLE TO CIRCUIT CIVIL CASES

RULE 10. TIME STANDARDS FOR DISPOSITION OF CASES

§ 10.01 Time Standards

All civil cases must be concluded or set for trial in a timely fashion.

§ 10.02 Dismissal of Cases

To expedite cases, the court may take reasonable measures including dismissal or entering a scheduling order to enforce the time standard set forth above.

§ 10.03 Docket Calls or Status Conferences

The court may hold docket calls or status conferences to ascertain the status of cases and set deadlines for their disposition.

RULE 11. FORMS OF PLEADINGS

- a. All pleadings shall contain a caption and designation as provided by Rule 10.01 Tenn. R. Civ. P. In addition, all complaints, petitions and motions shall, in the designation thereof, contain a short statement of the relief sought or the nature of the matter contained therein.
- b. All pleadings, addressed to the court, shall be in the following form, to wit: In the Circuit Court of Tennessee for the Twenty-Fourth Judicial District at _____ (Camden, Huntingdon, Decaturville, Savannah, Paris).
- c. All pleadings shall conform to the requirements of Rules 7, 8, 9, 10 and 11, Tenn. R. Civ. P. Any pleading not conforming may, upon motion of an attorney, or by the court sua sponte, be stricken from the docket. Pleadings are requested to be on letter size paper (8 1/2 x 11). However, no pleading shall be refused because of the size of the paper.
- d. The Clerk shall note the filing of all pleadings and documents as required by Rule 5.06 Tenn. R. Civ. P.
- e. All pleadings and documents bearing the name of a legal firm shall also be signed individually by the member of the firm to whom the case is assigned and shall contain the address, phone number and Supreme Court Disciplinary Number of the attorney filing it.

RULE 12. RESERVED

RULE 13. GENERAL SESSIONS APPEALS IN CIRCUIT COURT

- a. Any party appealing a judgment of the General Sessions Court to Circuit Court shall have the duty to notify all parties in the General Sessions action of the filing of the appeal, and shall serve a copy of the Appeal Bond with the Notice of Filing of Appeal.
- b. Appellant shall appear at the docket call following the date of filing of the appeal to obtain a trial date setting the cause for hearing in the Division to which it is assigned. If the appellant fails to obtain a trial date in this manner, an order may be entered making the judgment of the General Sessions Court that of the Circuit Court, with costs taxed against the appellant.
- c. The signature of an attorney or a party to an appeal from General Sessions Court shall constitute a certification under Tenn. R. Civ. P. 11.

RULE 14. DISCOVERY

- a. Answers and other responses or objections to interrogatories, requests for production of documents and requests for admissions shall be numbered sequentially and shall set forth, immediately preceding the answer, the question made in the same numerical sequence.
- b. No party shall serve on any other party more than thirty (30) interrogatories or requests for admission without leave of court. For purposes of this Rule a sub-part of an interrogatory shall count as an additional interrogatory. Any motion seeking permission to serve more than thirty (30) interrogatories shall set out the additional interrogatories the party wishes to serve, together with the reasons establishing good cause for the service of additional interrogatories. If a party is served with more than thirty (30) interrogatories, without leave of court, he or she shall respond only to the first thirty (30). This same Rule shall apply for requests for admission.
- c. Interrogatories under Rule 33 Tenn. R. Civ. P., Requests for Production under Rule 34 Tenn. R. Civ. P., Requests for Admission under Tenn. R. Civ. P. 36, and the responses to these discovery requests shall be served upon other counsel or parties but shall not be filed with the Clerk except as provided in subsections (1-3).
 1. If relief is sought under Tenn. R. Civ. P. 26.03 or Tenn. R. Civ. P. 37 concerning any interrogatories, request for production or requests for admissions, copies of the portions of the interrogatories, requests, answers or responses in dispute shall be filed with the Clerk contemporaneously with any motion filed under Tenn. R. Civ. P. 26.03 or 37.
 2. Any previously unfiled interrogatory, request, answer or response that the Judge considers helpful in resolving a discovery dispute may be ordered filed with the Clerk.
- d. Depositions under Tenn. R. Civ. P. 30 and 31 shall not be filed with the Clerk

except as provided by this Rule. The party taking the deposition shall maintain custody of the original deposition during the pendency of the litigation or until the deposition is filed with the Clerk, unless the court otherwise directs. Depositions shall be filed only as follows:

1. When a deposition provides factual support for a motion or a response to a motion, the deposition shall be filed with the Clerk when the motion or response that it supports is filed.
2. When a deposition is to be read or otherwise used at trial or other proceeding, it may be filed any time after its taking, but it shall be filed prior to the conclusion of the trial or other proceeding.
3. When justice so requires, the court may order the filing of a deposition with the Clerk. Notice of such filing shall be served on all counsel or parties before or at the time of the filing thereof. The timing and manner of service (mail or delivery) shall be calculated to provide reasonable notice thereof to all interested parties.

e. The provisions of Tenn. R. Civ. P. 11 shall apply to all motions and responses concerning discovery pursuant to Tenn. R. Civ. P. 26 through 37.

f. To curtail undue delay, the Court may refuse to rule on any motion to compel, motion for protective order, or motion to quash unless moving counsel shall first file with the Court at the time of filing of the motion a statement certifying that he or she has conferred with counsel for the opposing party in a good faith effort to resolve by agreement the issues raised and that counsel have not been able to do so. If counsel for any party advises the Court in writing that an opposing counsel has refused or delayed a discussion of the problems covered in this subsection, the Court may take such action as appropriate to avoid delay, including the granting or denial of the discovery request.

g. Motions to compel discovery shall:

1. either (1) quote verbatim the interrogatory, request, or question and any objection or response thereto, or (2) be accompanied by a copy of the interrogatory, request, or excerpts of a deposition which shows the question and objection or response;
2. state the reason supporting the motion; and
3. be accompanied by a discovery effort certification (See Rule 14(f)).

[When a party has submitted no response to the discovery or has objected to the entire set of interrogatories or requests, the requirements of Local Rule 14(g)(1)(2) shall not apply.]

h. Motions for protective orders which are filed pursuant to Tenn. R. Civ. P. 26.03, motions to quash subpoenas for discovery which are filed pursuant to Tenn. R. Civ. P. 45.02, or any motion asking that discovery be postponed or restricted shall:

1. either (1) quote verbatim the interrogatory, request, question, or subpoena, or (2) be accompanied by a copy of the interrogatory, request, subpoena or excerpt of a deposition which shows the question;
2. state with particularity the grounds for the motion; and
3. be accompanied by an affidavit or other evidence showing the need for the

order. If there is no written request or question pending, counsel shall set forth the anticipated question or area of inquiry and otherwise fully comply with this Rule.

i. Agreements to furnish exhibits made during the taking of depositions may be enforced by motion made pursuant to Tenn. R. Civ. P. 37 and/or Rule 14(g) of these rules.

RULE 15. ISSUANCE OF SUBPOENAS

The Clerk shall keep a copy in the Clerk's file of all subpoenas issued for service by the Sheriff or by any other persons, including attorneys, private process servers, and any person authorized by law to effect service.

RULE 16. APPOINTMENT OF GUARDIAN AD LITEM AND ATTORNEY AD LITEM

Whenever it is made known to the Court, by pleading or motion that justice requires the representation by a Guardian Ad Litem of a party, or an Attorney Ad Litem, the attorney shall submit an order of appointment leaving blank the name of the person or persons to be appointed.

RULE 17. TEMPORARY INJUNCTION/HEARINGS AND MOTIONS TO MODIFY OR DISSOLVE INJUNCTIONS

a. Hearings for temporary injunctions shall be on sworn pleadings, affidavits, counter-affidavits, depositions and/or testimony, which shall be limited to the sole questions of whether or not the temporary injunction is justified, and to dispute material issues of fact.

b. Motions to modify or dissolve injunctions may be heard upon one (1) day's notice or less, if so ordered by the Judge.

RULE 18. PRE-TRIAL PROCEDURE IN CIVIL CASES

§ 18.01 Required Exchange of Witnesses and Documents

At least ten days before the trial of a civil case, opposing counsel shall either meet fact-to-face or shall hold a telephone conference for the following purposes:

- a. to make available for viewing and to discuss proposed exhibits; and
- b. exchange a list of witnesses and exhibits. In the event that the parties hold a telephone conference rather than a face-to-face meeting, the exhibits shall be made available for viewing before the conference.

§ 18.03 Briefs in Civil Jury Cases

In all jury cases, unless otherwise allowed by the Court, ten (10) days before the trial of a case, trial briefs shall be submitted to the Court and furnished to opposing counsel. The trial brief format is attached to this Rule as Appendix A. If an issue to be litigated at trial has been briefed in pre-trial motions and counsel

believes that the motion brief adequately covered the issue, counsel may refer the court to the motion brief in lieu of briefing the issue for trial.

§ 18.04 Briefs in Civil Non-Jury Cases

In all non-jury cases, trial briefs are required ten (10) days before trial. Unless otherwise allowed by the Court, before the trial of a case, trial briefs shall be submitted to the court and furnished to opposing counsel. The trial brief format is attached to this rule as Appendix B. If an issue to be litigated at trial has been briefed in pre-trial motions and counsel believes that the motion brief adequately covered the issue, counsel may refer the court to the motion brief in lieu of briefing the issue for trial.

TRIAL BRIEF FORMAT - JURY

- A. A concise statement of the facts
- B. The factual issues to be decided
- C. Points of Law
 - 1. Address all areas felt appropriate including those of an evidentiary nature, if felt controversial.
- D. An argument is neither required nor desired, but may be included, if felt necessary by counsel.
- E. Jury instructions
 - 1. General (Reference shall be made to T.P.I. by numbers (current edition))
 - 2. Include all special requests to charge
- F. General
 - 1. Briefs will not be filed with the Clerk, but sent directly to the trial Judge at his or her address.
 - 2. Include photostatic copies of any out-of-state or unreported cases cited and all statutes relied upon.
 - 3. Counsel will attach copies of their respective pleadings leading to a joining of issue, i.e. complaint and answer, amended, supplemental, etc.

TRIAL BRIEF FORMAT NON-JURY

- A. A concise statement of the facts
- B. The factual issues to be decided
- C. Points of Law
 - 1. Address all areas felt appropriate including those of an evidentiary nature, if felt controversial.
- D. An argument is neither required nor desired, but may be included, if felt necessary by counsel.
- E. General
 - 1. Briefs will not be filed with the Clerk, but sent directly to the trial Judge at his or her address.
 - 2. Include photostatic copies of any out-of-state or unreported cases cited and all statutes relied upon.
 - 3. Counsel will attach copies of their respective pleadings leading to a joining of issue, i.e. complaint and answer, amended, supplemental, etc.

RULE 19. CIVIL MOTIONS

§ 19.01 Hearings

All motions shall be in writing and shall state with particularity the grounds for the motion and the relief sought. The attorney who files the motion has the burden to make application for a hearing at the next available motion day or as soon thereafter as practicable. With the approval of the Court some motions may be heard by telephone conference call. Failure to comply with this Rule shall be construed by the Court as abandonment of the motion. When a motion is set for a hearing, the Judge who will hear the motion shall be provided by the attorney who filed the motion with a courtesy copy of the motion and all supporting materials. The Judge shall also be provided by the attorney responding to the motion with a copy of the response along with all supporting materials.

a. **Dispositive Motions.** All motions potentially dispositive of any issue in a case shall be scheduled for hearing by the attorney filing the motion at the next available motion day after the filing or as soon thereafter as is practicable. Failure to obtain a hearing in a timely manner may be construed by the Court as an abandonment of the motion and the Court may refuse to consider the motion.

b. **Summary Judgment.** Motions for Summary Judgment shall be filed and served at least sixty (60) days before the scheduled trial date. Any Motion for Summary Judgment filed within sixty (60) days of the scheduled trial date will not be heard and the matter will proceed to trial. All motions for summary judgment and to dismiss supported by evidentiary matters shall be filed at least thirty (30) days before hearing of same as required by Rule 56.04 of the Tenn. R. Civ. P. Attorneys for the proponent of the motion shall deliver memorandum briefs to the Court (with a copy of affidavits and supporting documents), and shall file with the Clerk all original affidavits and supporting documents at least thirty (30) days prior to the hearing of the motion. Attorneys for the respondent shall deliver memorandum briefs to the Court, (with a copy of affidavits and supporting documents), and shall file with the Clerk all original affidavits and supporting documents not later than five (5) days before the hearing as required by Rule 56.04 of the Tenn. R. Civ. P. No motions shall be heard unless the parties comply with this Rule.

c. **In Limine.** Motions in Limine shall be, where practical, filed no less than ten (10) business days before trial and set for hearing before the trial. The Court shall be notified of any objections in medical depositions to be read or shown to the jury and the objections shall be heard before the trial.

d. **Special Settings.** Special settings for motions that cannot be heard on a regularly scheduled motion day may be arranged with the appropriate Judge. The Court has, by separate orders, set regular motion days in each county.

§ 19.02 Opposition to Motions

If a motion is opposed, a response to the motion must be filed. The response shall be in writing and shall state with particularity the grounds for the opposition. If no opposition to the motion is filed, the motion will be considered unopposed. Responses to motions, including any opposing affidavits, depositions or briefs or

any other matter being presented in opposition to the motion must be filed and furnished to opposing counsel.

RULE 20. SETTING CASES FOR TRIAL

§ 20.01 Method of Setting

When a case is ready for trial the attorney for either party may obtain a trial date in one of the following ways:

- (1) By motion conforming to Tenn. R. Civ. P. 6.04, 6.05 and 7.02;
- (2) By the court with notice to counsel; or
- (3) By the court during a civil docket call.

When a case is set by agreement at docket call or otherwise, or when a case is set by motion without objection, all counsel are certifying that they are available for trial and that the case will be ready for trial on the trial date. Counsel shall not apply for or obtain any trial setting from the court without prior notice to all counsel or parties of the time and place of application.

RULE 21. RESERVED

RULE 22. ORDERS AND JUDGMENTS

- a. Orders and judgments shall be headed by a title indicating the nature thereof. Unless otherwise permitted by the court, orders shall be presented to the court promptly after the decision is rendered.
- b. It shall be the duty of attorneys for successful parties, unless the Court directs or the parties agree otherwise, to prepare orders for entry by the Court, the same to be submitted to opposing counsel. When opposing counsel receives a copy of an order by mail, he or she shall approve the order immediately if he or she has no objection to the form or substance of the order.
- c. If opposing counsel refuses or declines to approve any order and an agreed order cannot be obtained, either party may submit an order to the Court after service of a copy upon the opposing party.
- d. Orders mailed to counsel and presented to the Court and containing only the signature of the attorney preparing the order may not be entered immediately, but will be held by the Judge for ten (10) days. If the court receives no objection within the ten (10) day period, the order may be entered. When counsel disagree as to the terms of the order, an order shall be prepared by counsel opposing the order. Counsel shall deliver the same to the Judge before the expiration of the ten (10) day period. The time for these actions shall be computed under Tenn. R. Civ. P. 6.
- e. Orders shall be sent directly to the Judge who presided for execution along with a self-addressed stamped envelope for forwarding to the court clerk or attorney.

RULE 23. JURY TRIALS

Whenever a complaint or other pleading in which a jury is demanded is presented for filing, the attorney shall endorse on the face thereof the words, "Jury Demanded". The words "Jury Demanded" should be placed under the docket number. If a jury is thereafter demanded by any party in the action, the Judge to whom the case is assigned shall be notified immediately by that party.

RULE 24. MOTIONS FOR NEW TRIAL

- a. Motions for new trial shall be filed and disposed of as provided by Rule 59 Tenn. R. Civ. P.
- b. Motions for new trial shall be in writing and filed with the Clerk within thirty (30) days after rendition of a jury verdict or the entry of any decree or judgment to which exception is taken.
- c. All motions for new trial shall conform to the following requirements:
 1. If a new trial is sought on the ground of error in the charge of the Court, the particular language of the charge of which the complaint is made shall be quoted. No general reference to the charge as erroneous as a whole shall be regarded as sufficient, but the particular part or parts of the charge complained of must be pointed out and quoted in the written motion for new trial, followed by a statement explaining why it is contended that same is erroneous.
 2. It shall not be sufficient to state in general terms that the court erred in the rejection or admission of evidence, but the party seeking a new trial shall, in the motion for new trial, point out the testimony which it is contended was erroneously admitted or excluded, either quoting same literally, giving the substance of it, or otherwise referring to it in such a manner that the exact part of the evidence so admitted or excluded can be identified specifically at the hearing of the motion for new trial.

RULE 25. DISMISSAL FOR LACK OF PROSECUTION

Whenever a cause has remained on the docket for twelve (12) months or more without steps being taken by the plaintiff to dispose of the cause, the opposing parties shall be entitled, upon motion with service to all parties, to request the court for a dismissal of the cause with prejudice at plaintiff's costs. The Court may on its own motion dismiss the case.

RULE 26. INVESTING FUNDS PER COURT ORDER

The Clerk's office shall invest litigant's funds paid into court only if there is a court order directing them to do so. The funds shall be invested in a federally insured deposit account. At the time of payment or when the order is entered, if later, it shall be the **DUTY OF THE ATTORNEY** seeking investment of funds to specifically notify the Clerk receiving payment that the funds are to be invested and to provide an IRS form W-9 to the Clerk's bookkeeping department for the

party responsible for tax liability. Funds shall not be withdrawn without an Order of the Court.

RULE 27. CONTINUANCES

- a. Cases may be continued only by approval of the court. A copy of motion shall be sent to the judge presiding. Unless required by exigent circumstances, counsel shall not apply for a continuance except upon written motion. Notice to all counsel and any pro se litigants shall be given as required by Tenn. R. Civ. P. 6.04, 6.05, or in such manner as to provide reasonable notice and an opportunity to be heard to all parties.
- b. Normally, the absence of a witness will be grounds for a continuance only where the subpoena for a local witness was issued ten (10) days or more before the date of trial, or ten (10) days or more before the date of trial where the witness is out of the county; however, each application for a continuance is subject to the discretion of the court.
- c. When application for a continuance is based upon the illness of a party or a material witness, said application should contain a written statement specifying the type of illness, whether or not the illness is of a temporary or permanent nature, and whether or not such person is able to appear in court.
- d. When application is based upon the fact that a material witness cannot be found, an affidavit must be filed giving the name of said witness or witnesses, what evidence is expected to be proved by said witness or witnesses, and what effort has been made to locate said witness or witnesses.
- e. If a case is continued or settled, the attorney who had subpoenas issued for witnesses is responsible for notifying said witnesses not to appear.
- f. If a case is continued, a new trial date may be ordered by the court for a date certain at the time the motion for continuance is granted.

RULE 28. SUBPOENAS

§ 28.01 Subpoenas Issued By Clerk

In civil actions, subpoenas shall be issued and signed by the Clerk in triplicate. The attorneys shall prepare and submit an original and two copies of each subpoena for issuance by the Clerk.

28.02 Time for Issuing Subpoenas

Subpoenas for a witness must be issued and dated by the Clerk no later than ten (10) days before the date of trial unless prior approval has been granted by the Judge for an extension. The foregoing notwithstanding, the Clerk shall not refuse to issue a subpoena even if requested after the dates set forth above.

§ 28.03 Address of Witness

Counsel of record shall be responsible for providing street addresses and phone numbers, if known on the requested subpoena(s).

RULE 29. CIVIL JURIES

Civil attorneys should notify the trial court if a settlement is reached prior to the date of a jury trial or if a jury is not needed for any reason. If a jury is called in, and a case is not tried to a jury on that date, the Court may assess the cost of the jury to the parties.

RULE 30. ALTERNATIVE DISPUTE RESOLUTION

Upon agreement of the parties or upon order of the court any matter may be referred to a Mediator for a potential resolution of the issues in that cause. The costs of any alternative dispute resolution proceeding, including the costs of the services of the Rule 31 dispute resolution Mediator may be charged as court costs at the Mediator's request.

RULES APPLICABLE TO CRIMINAL CASES

RULE 31. EXTRAORDINARY INTERLOCUTORY RELIEF IN CRIMINAL CASES

All special requests for extraordinary interlocutory relief in unindicted and unassigned cases including but not limited to the amount of a defendant's bond shall be presented to the Judge who is assigned the Grand Jury for that particular term. Under the current court calendar, Part I is assigned the Grand Jury in Benton, Decatur and Hardin Counties; Part II is assigned the Grand Jury in Carroll and Henry Counties. This rule applies to all five (5) counties in the Twenty-Fourth Judicial District. Another Judge will consider the request if and only if the situation is an emergency and the assigned Judge is unavailable.

RULE 32. DISCOVERY IN CRIMINAL CASES

When a party intends to offer an audio and/or visual recording as evidence in a jury trial and the law requires its disclosure to adverse counsel, adverse counsel shall be permitted to review the recording in the form to be offered a trial and shall be allowed to copy the recording at his or her expense. Adverse counsel shall promptly advise the other attorney of each objection to the recording. The lawyers shall then attempt in good faith to resolve objections. If no resolution is reached, a motion in limine shall be filed and set sufficiently before trial so that the objections may be ruled on in time to allow any necessary editing. This does not void requirements of Tenn. R. Crim. P. 12(d).

RULE 33. SUBPOENAS

§ 33.01 Subpoenas Issued by Clerk

In criminal cases the issuance of subpoenas for witnesses shall comply with Criminal Court Clerk policies.

§ 33.02 Time for Issuing Subpoenas

The provisions of Rule 28.02 are incorporated herein by reference.

§ 33.03 Address of Witness

Counsel of record shall be responsible for providing street addresses and phone numbers, if known, on the requested subpoena(s).

§ 33.04 Prison Inmates

The following rules apply to the appearance of prison inmates in court:

- a. When the prison inmate is a defendant in a criminal case, the District Attorney General shall prepare a proposed transport order and submit it to the Court at least ten (10) working days prior to the court date.
- b. Counsel needing prison inmates as witnesses in a criminal case shall submit a proposed transport order at least ten (10) working days prior to the trial or hearing date.
- c. Defense counsel in criminal cases shall make every effort to insure that prison inmates are not needlessly brought to court for a scheduled settlement docket (see Local Rule 40) unless the case is for actual settlement and/or there is other just cause.
- d. Deadlines on transport orders may be waived by the Court for just cause if it is practicable for the Sheriff's Department to transport the inmate on short notice.

RULE 34. MOTIONS IN CRIMINAL CASES

§ 34.01 Time for Filing Pre-Trial Motions

All pre-trial motions shall be made pursuant to Tenn. R. Crim. P. as well as the pretrial scheduling order. A copy thereof, along with supporting authority may be delivered to chambers at the time of filing by the movant or when requested by the judge.

§ 34.02 Failure to Appear at a Motion Hearing

If counsel for a movant does not appear at a scheduled hearing on a motion or any other matter scheduled to be heard on the motion docket, the court may strike, deny, or otherwise dispose of that motion.

§ 34.03 Motions in Limine

- a. Motions in limine seeking to resolve a trial evidentiary matter shall be set at the discretion of the court.
- b. Counsel are encouraged to raise appropriate evidentiary objections by written motion at least five (5) days before trial or as otherwise directed by the case scheduling order.

§ 34.04 Statement of Facts and Legal Authority

Every motion and response which may require the resolution of an issue of law or evidence shall be accompanied by a brief statement of facts and legal authority.

§ 34.05 Written Orders submitted

A written order shall be prepared promptly by counsel after the Court has decided a matter and submitted to the Court for entry.

RULE 35. DIVERSION REQUESTS

- a. Failure of counsel to comply with this rule may result in the denial of Pre-Trial Diversion. The attorney requesting Pre-Trial Diversion shall obtain an order for the investigation and preparation of the report by the probation authorities and shall provide a copy of the order to the proper probation authorities. The attorney requesting Pre-Trial Diversion shall also request a TBI eligibility check for the defendant. After counsel for Defendant has received both the pre-trial investigation report and the TBI approval form, counsel for defendant shall have up to fifteen (15) days to respond by submitting to the District Attorney the "Attorney's Certificate" form attached to these rules. The parties may agree to a longer response time, not exceeding thirty (30) days. If the form is not timely submitted or additional time requested, then the matter will be deemed ripe for decision. The Attorney's Certificate. is attached to this rule as Appendix C.
- b. When a tentative agreement for Post-Plea Expungement is reached or when Judicial Diversion is requested, Counsel for defendant will promptly request a TBI eligibility check.
- c. The Court will not accept a plea based on Judicial Diversion or Post-Plea expungement until TBI approval has been obtained.

ATTORNEY'S CERTIFICATE
PRE-TRIAL DIVERSION

To: The District Attorney General

In Re: _____
Defendant's Name

Case #: _____

I hereby certify that I have received and reviewed the TBI eligibility check and the pre-trial investigation report. My response is as follows:

_____ No additional comments

OR

_____ I have comments attached, which I wish you to consider and/or additional documentation attached for your consideration.

Copies of the pre-trial investigation report and TBI eligibility form are attached.

This matter is now ripe for your decision on pre-trial diversion.

Defense Attorney

Dated: _____

RULE 36. SETTING OF MOTIONS

Pre-trial motions will, if practical, be set on motion days designated by the Court, or may be set by agreement. The Court may allow the opposing party a reasonable continuance for good cause shown.

RULE 37. SETTING CASES FOR TRIAL AND CONTINUANCES: CRIMINAL CASES

§37.01 Method of Setting

Cases shall be set for trial by the court on the final settlement date.

§ 37.02 Continuances

a. Cases may not be continued by agreement and may be continued only by leave of court. When a case has been set for trial it will not be continued except for good cause, which shall be brought to the attention of the court as soon as practicable before the date of the trial.

b. Absence of a witness will not be a ground for continuance unless the witness has been subpoenaed in accordance with the requirements of these rules and Rule 17, Tenn. R. Crim. P.

RULE 38. CLOTHES FOR INCARCERATED DEFENDANTS

Counsel for jailed defendants should make a diligent effort to have clothes provided to his or her client by 7:00 a.m. on the day of trial. The purpose of this Rule is to avoid a delay on the day of trial while street clothes are obtained for an incarcerated defendant.

RULE 39. WAIVER OF ARRAIGNMENT

Waiver of Arraignment shall be in writing and signed by the defendant. Waivers shall be filed no later than the morning of arraignment day, with service to the office of the district attorney and the Judge presiding over arraignment. Counsel of record must appear at arraignment pursuant to Tenn. R. Crim. P. Rule 43 (c)(4).

RULE 40. NEGOTIATIONS AND SETTLEMENTS IN CRIMINAL CASES

§ 40.01 Appearance Day

Appearance days will generally be set approximately four to six weeks after arraignment. A calendar will be published by the Judges to reflect the settings. When Court schedules are full, priority will be given to those defendants who are incarcerated. On appearance days, pleas should be entered on cases that are to be settled. The Court may continue the case to another appearance day if additional time is needed by the parties to achieve a settlement of the case.

§ 40.02 Settlement Date; Settlement Deadline

The settlement (appearance) date will be the deadline for acceptance of a negotiated disposition. At the final settlement (appearance) date, if the case has not been settled the court will set the case for trial. Once a case has been set for trial, the court will not accept any settlement except for good cause which shall be brought to the attention of the court as soon as practicable. If a jury reports on the day of trial and the case is not tried, the Court may assess the cost of the jury as part of the court costs. Nothing in this rule shall prohibit the defendant's election to enter a plea of guilty to one or more counts of an indictment while demanding a trial on one or more counts of the same indictment. Likewise, counsel for the State may move to dismiss with prejudice one or more counts of the indictment while demanding trial on one or more counts.

§ 40.03 Notice to Victims

In recognition of T.C.A. § 40-38-101, in cases involving plea agreements pursuant to Tenn. R. Crim. P. 11, the court may refuse to accept the plea unless the prosecuting attorney states on the record that he or she has, before the plea, communicated with the victim regarding the plea or made a good faith effort to communicate with the victim.

RULE 41. APPOINTMENT OF ATTORNEY FOR INDIGENT DEFENDANT

Those persons who seek a court appointed attorney on the basis of indigency must notify the Court at their initial court appearance. If the Court determines that a defendant is indigent, the Court will appoint an attorney to represent that defendant at arraignment or as soon thereafter as possible, and an order will be entered appointing that attorney.

RULE 42. BONDING COMPANIES

All matters involving the qualifications and operation of bond persons and bonding companies shall be addressed to the Judges of the Court, who shall hear and dispose of such petitions and applications as they shall determine. All applications for relief pursuant to T.C.A. § 40-11-204 shall be in writing and filed with the Clerk with a copy to the District Attorney General. The Court shall dispose of such applications in open court with both the bonding company and the State being given an opportunity to be heard.

RULE 43. TRIAL CALENDAR

Cases shall be set by the Court after appearance date.

RULE 44. JAILED DEFENDANTS

In cases wherein the defendant is incarcerated, cannot make bond, and demands a speedy trial, said case shall be placed upon the trial docket by the Judge at the earliest available date.

RULE 45. PROCEDURE DURING TRIAL

Where there is more than one defendant in a case, defense counsel may agree on the order they shall follow. If counsel are unable to agree, the order in which the defendants are named in the indictment shall be followed. If each defendant is named by separate indictment, the order shall be followed by numerical docket number. Such order shall be followed in the voir dire, pleas, cross-examination, testimony of defendants, and arguments of counsel.

RULE 46. ORDERS IN CRIMINAL CASES

§ 46.01 Preparation and Submission of Orders By Counsel

Counsel will prepare orders for entry by the court pursuant to Rule 22 herein.

RULE 47. PRE-SENTENCE REPORTS

In any case where preparation of a pre-sentence report is required, the defendant shall report unless incarcerated to the office responsible for preparing the report within one week after conviction or entry of plea.

RULE 48. SETTING ATTORNEY FEES

All forms to request compensation for representing indigent defendants must be completed by the attorney and presented to the Judge who heard the case. If an attorney represents two or more defendants by appointment at arraignment, he or she can only claim that time once, and not claim the same time as to each defendant. In the event an attorney represents a defendant with multiple indictments on which the defendant is arraigned and tried on the same dates, that attorney should complete only one compensation form showing the time spent on behalf of this defendant, and not separate forms for each case. Failure to follow this rule may result in compensation forms being disallowed by the Court.

RULE 49. SEQUESTERED JURY

If either party requests a sequestered jury pursuant to T.C.A. § 40-18-116, a Notice of Requested Sequestration of Jurors shall be filed with the Clerk at least ten (10) days prior to the date of trial. A copy of the notice shall be provided to the Trial Judge and court security by the attorney filing the notice.

RULE 50. GUILTY PLEA FORMS

Guilty plea forms are to be typewritten, except in exceptional cases with leave of court. The forms shall contain all requested information.

RULES APPLICABLE TO CHANCERY CASES ONLY

RULE 51. DEFINITIONS, WAIVER AND ABROGATION OF RULES

§ 51.01 Definitions

Unless indicated otherwise, the following definitions apply:

- (a) Judge: The Chancellor of the Chancery Court.
- (b) Clerk: The Clerk and Master of the Chancery Court
- (c) Calendar Clerk: The secretary of the respective Judge.
- (d) T.C.A.: Tennessee Code Annotated.
- (e) T.R.C.P.: Tennessee Rules of Civil Procedure.
- (f) T.R.Cr.P: Tennessee Rules of Criminal Procedure.

§ 51.02 Suspension of Rules

The Court may suspend any of these rules when justice requires.

RULE 52. COURT SESSIONS

§ 52.01 Times

Sessions of Court will open at 10:00 a.m. or at such other times as the Court directs. Judges, attorneys, parties and witnesses will be prompt at all sessions.

§ 52.02 Terms Abolished

Terms of Court are abolished. Court shall be considered available for setting continuously.

§ 52.03 Reserved for Future Use

§ 52.04 Court Opening

"All Rise.

Oyez, Oyez, Oyez. The (specify Court) is now open pursuant to adjournment.

The Honorable _____ Presiding.

May God save the United States of America, the great state of Tennessee and this Honorable Court.

(Gavel to signal official opening)

Please be seated."

RULE 53. ATTORNEYS

§ 53.01 All counsel who have entered an appearance in a case will be counsel of record, and entry of an appearance shall be made in one of the following ways:

- (a) A request by counsel to the Clerk that an appearance be entered, and such attorney shall sign their name, firm address, and telephone number to be placed in the Court file upon becoming counsel.
- (b) The filing of pleadings.
- (c) The filing of a formal notice of appearance, or
- (d) Appearance as counsel at a hearing.

§ 53.02 Every attorney who has filed an appearance on behalf of a party shall be required to appear whenever any phase of the action is before the Court unless excused by the Court. No attorney may withdraw as counsel for any party without permission of the Court, and after certified notice to all parties at least (5) days prior to hearing.

§ 53.04 Court Decorum

- (a) Male Court attendants will wear coats and ties while in Court attendance, unless in uniform.
- (b) The space within the Bar shall, at all times, be reserved for members of the Bar, Court officers, witnesses on the stand and such persons as may be designated by counsel as necessary aides, who shall be seated at the respective tables occupied by the counsel they assist.
- (c) Newspapers, magazines and books are also prohibited. No person shall, within the courtroom, while Court is in session, read any newspaper, magazine or book, except when the same is required in the presentation of the case.

RULE 54. PRO SE LITIGANTS

- (a) All parties permitted by the Court to represent themselves in civil cases without representation by attorneys are obliged to comply with these rules.
- (b) Parties requesting the right to represent themselves shall file a written Notice with the Clerk of the Court stating their intentions to represent themselves. A copy of the notice shall be forwarded by the party to all attorneys of record and to all parties not represented by attorneys and shall contain a signed certificate of service as required by Rule 6. The notice shall include full names of all parties seeking to represent themselves, the mailing address where court documents can be forwarded, and if, available, a current telephone number. All parties representing themselves shall notify the Clerk of the Court, all parties, and attorneys of record of any changes of address.
- (c) The Clerk is not to file any pleadings or documents for parties representing themselves unless those documents and pleadings contain a certificate of service identifying all persons to whom the pleadings or documents are being delivered.
- (d) All references in these rules to the obligations of counsel or attorneys are applicable to parties representing themselves.

RULE 55. COURT FILES

§ 55.01 Control of Files

All papers and records of the Court shall be at all times under the custody and control of the Clerk. Persons wishing to review court files, records, tape recording or filed exhibits may do so only under the supervision of the Clerk in a space provided in the Clerk's office.

§ 55.02 Withdrawal of Files

No files shall be withdrawn from the office of the Clerk except by attorneys or their staff on permission of Court or as provided in §55.03 below.

§ 55.03 Receipt

No file will be withdrawn from the Clerk's custody by an attorney or their staff without first obtaining permission from the Court or the Clerk and signing a receipt to return the file on a specific date. The Clerk shall prepare a proper receipt form with a space for the Court or the Clerk to sign, and the attorney to sign. All files must be returned by hand delivery.

§ 55.04 Out of county files/docket sheets

In any case which is heard at a place other than the courtroom for the county in which the cause is filed, it shall be the responsibility of the attorneys to present to the Court at the time of the hearing, the court file and the trial docket sheet, and the attorney shall return these papers to the office of the Clerk and Master immediately after the hearing. The court file and trial docket sheet shall not be given to any of the litigants for re-delivery to the Clerk and Master. The attorneys shall be completely in charge of all such papers and records. All files must be returned by hand delivery.

RULE 56. RESERVED FOR FUTURE USE

RULE 57. DISCOVERY

§ 57.01 Filing Required Only for Use by Court

Interrogatories, requests for production of documents or admissions, depositions and other discovery material which is filed with the Clerk will be stamped LODGED and RECOGNIZED by the Clerk and returned to the filing party. Such material will not be retained by the Clerk unless it is to be used in Court or considered by the Court for a purpose other than impeachment.

§ 57.02 Interrogatories to Parties

(a) Written interrogatories and sub-questions shall not exceed thirty (30) in number, without express permission of the Court.

(b) After each separate question and sub-question, a blank space shall be provided reasonably calculated to enable the answering party to have his answer typed in. The answering party shall verify his/her answers immediately following his/her answer to the last interrogatory.

(c) The party to whom the interrogatories are directed shall answer or object to each interrogatory within the space so provided or use additional pages if necessary and shall serve the copy containing the original verification upon the party propounding the interrogatories.

§ 57.03 Discovery Disputes

To curtail undue delay, the Court will refuse to rule on any motions for discovery unless moving counsel shall first file with the Court at the time of filing of motions, a statement certifying that he has conferred with counsel for the opposing party in a good faith effort to resolve, by general agreement, the issue raised and that counsel have not been able to do so. If counsel for any party advises the Court in writing that any opposing counsel has refused or delayed a discussion of the

problems covered in this subsection, the Court may take such action as is appropriate.

RULE 58. PRETRIAL AND SETTLEMENT CONFERENCE

§ 58.01 Scheduling Conferences

Scheduling conferences may be set at the discretion of the Court.

§ 58.02 Pretrial Conferences

- (a) Pretrial conferences will be held at the request of the parties or at the discretion of the Court.
- (b) Each party appearing in the action shall be represented at the pretrial conference by counsel who will conduct the trial, or by co-counsel with full knowledge of the case, and with the authority to bind such party by stipulation.
- (c) Counsel shall produce at the hearing for identification, examination, and discussion, all exhibits which they intend to offer as evidence at the trial, including, but not limited to, documentary proof, photographs, x-rays, and books of account, to be marked and identified in advance as evidence in the case.
- (d) Counsel shall obtain the names, addresses and nature of testimony of witnesses to be called at the trial and, if requested, furnish names to opposing counsel at or prior to the pretrial conference.
- (e) Counsel shall discuss, in advance of the pretrial conference, the facts, issues, documents, and exhibits involved in the case so that as many stipulations and agreements as possible may be made in advance, between the parties.

RULE 59. MOTIONS

§ 59.01 Setting Motions for Hearing

- (a) Motion days will be set at least (6) six months in advance and a calendar will be available in the Clerk's office.
- (b) Contested motions will be set by the Chancellor's office of the respective Court at the request of counsel. Sessions of Chancery Court will open at 10:00 a.m. or at such other times as the Court directs.
- (c) All other motions will be set by the clerk upon request of counsel. All motions are set for hearing at 10:00 a.m. in the Chancery Court. The

Court may upon its own initiative or by agreement of counsel hear any motion by telephone or decide the motion without argument.

- (d) Uncontested divorces, support pendente lite, settlements, minors settlements, adoptions, and other uncontested matters may be heard on motion days.

§ 59.02 Briefs on Motions and Responses

Every motion which seeks resolution of doubtful or infrequently encountered issues of law and every motion which seeks summary disposition of a case shall be accompanied by a brief setting forth the essential facts, and the principals of law relied on, with citations to authorities. Reply briefs must be filed and served no later than 24 hours in advance of the hearing on the motion. A copy of the motion and brief shall be sent to the Chancellor at his office. PARTIES ARE ENCOURAGED TO LIMIT THEIR BRIEFS TO TEN PAGES OR LESS.

§ 59.03 Special Setting of Motion

Where special circumstances warrant, motions may be specially set at a time other than on the motion docket by agreement of all parties and approval of the Chancellor or Calendar Clerk. A motion to dissolve an ex parte order is ripe for hearing at anytime which is satisfactory to the Court.

§ 59.04 Court's Own Motion

Motions may also be set upon the Court's own motion by notice to counsel.

RULE 60. SETTING CIVIL CASES FOR TRIAL

Civil cases shall be set for trial in one of the following ways:

- (a) by agreement of counsel and approval of such date by Chancellor. Counsel must, upon receiving date, forward letter of confirmation to all parties, Chancellor and Clerk of the Court;
- (b) by motion to set;
- (c) by the Court with notice to counsel; or
- (d) at a scheduling or pretrial conference.

RULE 61. CONTINUANCES

Continuances are looked upon with disfavor by the Court. Once set, cases may not be continued by agreement of counsel, but may only be continued by the Court for good cause shown. Requests shall be made by written notice with affidavit or oral motion in open Court except in emergencies. There should be no

ex parte communications regarding a continuance. The Court desires to hear from all counsel simultaneously.

RULE 62. FINDINGS OF FACT AND CONCLUSIONS OF LAW

Requests for written findings of facts and conclusions of law must be made prior to entry of judgment. Simultaneously, the attorneys shall submit proposed findings of facts and conclusions of law. The Court may decline to make written findings and conclusions if findings and conclusions have been stated from the bench into the record.

RULE 63. PREPARATION AND SUBMISSION OF ORDERS AND JUDGMENTS IN CIVIL CASES

Unless the Court directs otherwise, attorneys for prevailing parties will prepare orders for entry by the Court. All proposed orders must be submitted to the Chancellor promptly following the day on which the ruling is made by the Court. Unless the order is approved by all counsel, it shall contain an appropriate certificate of service. Counsel who do not approve the proposed order shall submit their own order within (5) five days of receipt of the proposed order and designate the disputed issues to the Court. The Court will either approve one of the proposed orders or enter its own order.

RULE 64. INTERCHANGE

§ 64.01 Order of Interchange

The trial Chancellors within the district may freely interchange without necessity of notice or entry of a formal order of interchange.

§ 64.02 Presentation of Uncontested Divorces, Settlements and Other Uncontested Matters

Uncontested divorces, minor settlements and other uncontested matters may be heard by either Chancellor regardless in which Court the matter was filed. No order of interchange shall be required. The purpose of this rule is to expedite such matters when the Chancellor of the Court in which the matter is pending may not be readily available. Under such circumstances, counsel may set matters with either Chancellor without first having to secure the approval of the Chancellor of the Court in which the matter is pending.

RULE 65. RESERVED FOR FUTURE USE

RULE 66. BAIL BONDS

Bail bonds may be made by; (a) a qualified professional bondsman; (b) a cash bond; (c) property bond; or (d) other bonds approved by the Court

For purposes of posting a property bond:

The assessed value of the property must be at least twice the amount of the bond. The property bond must be secured by a deed of trust with the Clerk as Trustee, payable to the State of Tennessee. In addition, a title opinion must be provided by an attorney. Additional information may be obtained in the Clerk's office as to title opinion requirements.

RULE 67. RESERVED FOR FUTURE USE

RULE 68. DIVORCE CASES

§ 68.01 Hearing Dates

Divorce cases shall not be heard any sooner than (30) thirty days after filing. Uncontested cases may be set on motion days or on such other dates set by the Court.

§ 68.02 Affidavits Required in Contested Cases

Prior to the hearing of the contested divorce trial, the parties shall file with the Clerk and provide a copy to the Court, the affidavit, executed by the party as to real and personal property, setting forth, pursuant to the criteria of T.C.A. §36-4-121:

- (1) The real and personal separate property of each of the parties and the value thereof;
- (2) The real and personal marital property of the parties and the value thereof;
- (3) The remaining real and personal property of the parties and the value thereof, the character of which is to be decided by the Court.

If either party desires, they may additionally propose to the Court, at the trial, after complying with the foregoing paragraph, a division of all or part of the marital property. The Court is not bound by the proposals, but will give proper consideration to the wishes of the parties.

In all contested divorces, alimony, child support, and modification hearings, an affidavit of income and expenses in accordance with T.C.A. §36-4-116 shall be filed with the Clerk prior to the hearing. Each party shall make a separate affidavit concerning income and expenses during the prior calendar year and each month up to and including the month of the hearing of the present year. A copy shall be served on opposing counsel and a copy available to the Court.

§ 68.03 Permanent Parenting Plan, Parenting Education Seminar and Mediation in Domestic Relations Cases with Minor Children

General Provisions: This rule is adopted to promulgate procedures to be followed in the Courts of Record in the 24th Judicial District of Tennessee so as to ensure that the intent of that legislation is carried out by those parties with children involved in domestic relations cases, by Clerks, by attorneys, by providers (parenting plan educators and mediators), and by the courts. If any provision herein is found to be in conflict with the legislation, the legislation will prevail.

A. **General Order:** The General Order for the 24th Judicial District is hereby adopted. All forms are available with the Clerk.

B. **Duties of Clerks:**

(a) When a complaint for divorce or petition for modification in a post-divorce case is filed with the Clerk's office, the attorney shall assure that the parenting plan package has been attached to the summons and has been made available to the filing party. If the filing party is not represented by an attorney, the Clerk shall give the filing party a package. The same package will be included in the summons to the defendant/respondent.

(b) **Package Contents:** The package shall contain the following:

- 1) The General Order and open letter from the Chancellors (Forms 1 and 2);
- 2) The parents guide for education (Form 3);
- 3) The parents guide for mediation (Form 4);
- 4) The parents guide for developing a parenting plan (Form 5);
- 5) A list of approved educational providers;
- 6) A list of mediators available in the district.

(c) The following documents will be made available by the Clerks to attorneys and parents upon request:

- 1) Temporary Parenting Plan (Form 19);
- 2) Permanent Parenting Plan (Form 20).

(d) Check List: a check list (Form 10) will be attached by the Clerk to each case file involving divorce proceedings with minor children. The check list will be completed by the Clerk as items are furnished to parties, or filed by parties, attorneys, providers, or the Court.

(e) Issue a show cause order (Form 6) to any party who has not submitted a Certificate of Attendance from a parenting education seminar within (30) thirty days of the date that attendance is required, which will be (30) thirty days from filing for plaintiff, (30) thirty days from service for defendant.

(f) Submit to the Chancellor for signature an Order to Mediate (Form 13) if the parties have not filed an agreed parenting plan within 120 days of service of process.

C. Duties of Attorneys: Attorneys representing parents involved in divorce proceedings involving minor children shall:

(a) Secure from the Clerk's office or otherwise all approved forms utilized under this rule;

(b) Furnish a copy of the package (3B of this rule) to their client and explain the contents to the client;

(c) Attach a copy of the package to any summons filed on behalf of plaintiff/petitioner;

(d) Monitor their client's timely attendance at a parent education seminar.

(e) Assist client in selecting/reaching agreement as to an appropriate mediator if a parenting plan has not been timely agreed to by the parties.

(f) File with the complaint or answer to hearing an agreed to or proposed parenting plan on Form 20. If a temporary parenting plan is sought, a proposed temporary parenting plan (Form 19) will be submitted to be acted on by the Court, if appropriate, ex parte or at an early hearing. It is strongly suggested that the blanks in the form be filled out by hand and/or highlighted for easier review by the Court.

(g) The agreed or ordered parenting plan will be attached to the Marital Dissolution Agreement or Decree as an exhibit and will not be duplicated in the MDA or Decree.

D. Duties of Providers

(a) The Chancellor will receive and act upon applications from providers who seek approval to provide parent education seminars. A list of approved providers will be furnished to the Clerks to be included in the package.

(b) The Educational Providers will make all arrangement for time, place, and fees for seminars to be conducted in no less than (2) two hour blocks, and a total of (4) four hours minimum. Seminar schedule for each provider will be provided to the Clerk to be made available to parents and attorneys.

(c) Educational Providers will notify the Courts by filing with the appropriate Clerk a copy of a certificate of attendance given to parents attending the classes. Certificates shall include the following: Name, Social Security numbers, docket number, name of educational provider, date class was attended, and be signed by a representative from the seminar facilitator.

(d) Fees: The fee or costs of the parenting seminars shall be borne by the parties. Fees may be reduced or waived for indigent persons. The Educational Provider will be expected to provide an appropriate number of pro bono slots for indigent persons;

E. Mediators:

(1) At anytime during the divorce proceedings, parents may choose to participate in a method of alternative dispute resolution and select their own mediator or arbitrator. However, if the Court is involved, either by the Court's own motion or by motion of one or both parties, the Court will appoint a mediator pursuant to Supreme Court Rule 31. If the parties are unable to reach an agreement on a permanent parenting plan within (120) one hundred and twenty days after the commencement of the action, the parties may submit a scheduling order to the Court including a referral to mediation or alternative dispute resolution or request for a waiver for just cause. The Court may designate a Rule 31 family mediator by Court order. A list of mediators who have met the Court's criteria will be provided to the attorneys and parents. The mediators' fees may be taxed as court costs or the Court may determine the case is appropriate for pro bono mediation to be coordinated through legal services. The mediator is responsible for reporting to the Court pursuant to Supreme Court Rule 31.

(2) Mediation Assignment: If the Court is involved, either by the Court's own motion or by the motion of one of both parties, a family mediator will be appointed pursuant to Supreme Court Rule 31.

A Rule 31 Family Mediator will be appointed by court order (Form 14)

OR,

a referral to mediation is ordered by the Court (Form 13)

OR,

a referral to pro bono mediation is ordered by the Court (Form 16)

(1) Scheduling Order for Mediation

If the parties have been unable to reach an agreement on a permanent parenting plan within (120) one hundred and twenty days after the commencement of the action, the parties may submit a scheduling order to the Court including a referral to mediation of alternative dispute resolution or request a waiver for just cause.

(4) Mediation Fees and Agreements to Mediate

The parents may directly negotiate the fees with the mediator. An agreement to mediate (Form 15) shall be executed at the beginning of mediation by the parents and mediator,

OR,

The Court may, upon motion, determine that the case is appropriate for pro bono mediation and the fees will be waived. Pro bono mediation will be coordinated by legal services. Each mediator must provide proof of (3) three pro bono mediations to the Administrative Office of the Court for annual re-approval.

(5) Invoicing Procedures

(a) If the Court has ordered that mediator fees are to be taxed as Court costs, the invoice must be submitted with the original final report to the Clerk's office.

(b) It is the mediator's responsibility to notify the Clerk's office that an invoice is included in the final report.

(c) The invoice should include a docket number to ensure correct filing and payment.

6) Mediator Reports

When a mediator has been appointed by the Court, reports will be filed with the Court pursuant to Supreme Court Rule 31. The reports include a 30-day report and final report (refer to Forms 12 & 12a).

7) Judicial Settlement Conferences will not be available in cases affected by this rule, except on motion and a showing of exceptional circumstances that would make education not appropriate.

§ 68.04 Subpoena for Witnesses

Subpoenas for witnesses by all parties shall be issued not less than ten (10) days prior to the date of trial for witnesses. Prior approval of the Court is required for any deviation of this rule.

§ 68.05 Testimony of Minors in Court

a) No subpoena will be issued for the testimony of a minor without prior approval of the Court.

b) No minor will testify in Court unless they are under subpoena.

§ 68.06 Payment of Cost in Domestic Relations Cases.

Cost must be collected at the time of filing unless properly excused by the Court.

RULE 69. JURY TRIALS

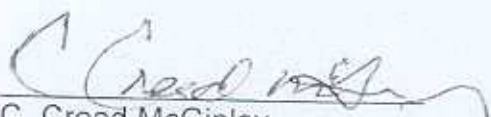
§ 69.01

Any jury trials not transferred to Circuit Court shall be set specially by the Chancellor after a pre-trial conference.

§ 69.02

In all jury trials, PROPOSED ISSUES OF FACT shall be submitted by all parties at least (10) ten days prior to the hearing date, unless requested earlier by the Chancellor.

IT IS FURTHER ORDERED AND ADJUDGED THAT THESE RULES SHALL
BECOME EFFECTIVE ON the 1st day of May, 2008.



C. Creed McGinley
Circuit Judge, Part I
Presiding Judge



Donald E. Parish
Circuit Judge, Part II



Ron E. Harmon
Chancellor