

LOCAL RULES OF PRACTICE  
FOR THE  
23<sup>RD</sup> JUDICIAL DISTRICT

Applicable in the Circuit and Chancery  
Courts

of

Cheatham, Dickson, Houston,  
Humphreys and Stewart Counties

During the Term of  
2014 to 2022

# 23rd Judicial District Local Rules of Practice

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# INTRODUCTION

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The 23<sup>rd</sup> Judicial District as presently established embraces the counties of Cheatham, Dickson, Houston, Humphreys and Stewart. All Judges of the 23<sup>rd</sup> Judicial District have full civil and criminal jurisdiction therein and are assigned areas of responsibility by the Presiding Judge. The Presiding Judge is elected yearly within the three Divisions.

The local rules of the 23<sup>rd</sup> Judicial District are established to set out local procedures which are not inconsistent with, and not adequately covered by, statutes, cases, Tennessee Rules of Civil Procedure, Tennessee Rules of Criminal Procedure, Tennessee Rules of Evidence, and the Code of Professional Responsibility. All former rules of local practice are abrogated except as re-adopted herein.

## **Courts:**

Each county within the District has courts of Chancery that include Civil and Probate matters, and Circuit including Civil and Criminal matters. Probate matters in the counties of Dickson and Humphreys are handled through the County Clerk by special private act.

## **Clerks:**

Each county within the District has a Circuit Court Clerk and a Clerk and Master with powers and duties prescribed by statute for such offices generally. The Clerks are expected to perform all of the acts, including the issuance of writs of attachment and fixing the bonds therefore, which the Clerks are authorized to perform under the applicable statutes. As used in these Rules, "CLERK" includes the Circuit Court Clerk and/or the Chancery Clerk and Master.

The Clerk and Masters of Cheatham, Houston and Stewart counties have the authority to exercise the powers set forth in Tenn. Code Ann. § 16-16-201(b). Any action taken by the Clerk and Master shall be subject to review by the Chancellor by simple motion, petition or the filing of exceptions as may be appropriate.

## **Judges:**

The 23<sup>rd</sup> Judicial District has three Divisions of Circuit Court Judges. The Circuit Court Judge serves as Chancellor in Chancery Court.

Division I:	The Honorable David Wolfe
Division II:	The Honorable Larry Wallace
Division III:	The Honorable Suzanne Lockert-Mash

## **Recognized Holidays:**

The 23<sup>rd</sup> Judicial District recognizes the following years Holidays:

- January 1<sup>st</sup> – New Years' Day Observance
- Martin Luther King, Jr. Day
- Presidents' Day
- Good Friday
- Memorial Day
- July 4<sup>th</sup> – Fourth of July
- Labor Day
- Columbus Day

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- Veterans' Day
- Thanksgiving Day and Friday Following
- December 24<sup>th</sup> and 25<sup>th</sup> – Christmas Eve and Christmas Day

In the event that a scheduled court day falls on a Holiday, the day shall be passed to either the day after or in some cases, the day before. Please check with the Clerk for verification.

### Grand Juries:

**Cheatham County:** Impaneled in February, June and October. Meets the first Monday and Tuesday of the Month preceding the court months of February, April, June, August, October and December.

**Dickson County:** Impaneled in January, May and September. Meets the third Monday in February, April, June and August. Meets the second Monday in October and December.

**Houston County:** Impaneled in March, July and November. Meets the third Monday of the Month preceding the court months of January, March, May, July, September and November.

**Humphreys County:** Impaneled the first Monday in April, August and December and meets the first Monday in February, April, June, August, October and December.

**Stewart County:** Impaneled the first Monday in March, July and November and meets the first Monday in January, March, May, July, September and November.

### Sessions of Court/Court Scheduling:

The 23<sup>rd</sup> Judicial District has a circuit of counties. Each county has a session of court and is assigned given months out of the year to cover Criminal and Chancery Courts. The current sessions rotate as follows:

Month	Division I	Division II	Division III
January	Dickson	Stewart	Houston
February		Cheatham	Humphreys
March	Houston	Dickson	Stewart
April	Humphreys		Cheatham
May	Stewart	Houston	Dickson
June	Cheatham	Humphreys	
July	Dickson	Stewart	Houston
August		Cheatham	Humphreys
September	Houston	Dickson	Stewart
October	Humphreys		Cheatham
November	Stewart	Houston	Dickson
December	Cheatham	Humphreys	

Houston County Session will be the third and fourth weeks of the month.

### Criminal/Circuit Days:

Each county has a designated docket call/arraignment day, criminal motion day, plea day, violation of probation/community corrections day, and a civil motion day. Trials will be scheduled upon compliance with these Local Rules.

### Chancery Days:

Each county will be given the approximate number of Chancery days every term:

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Cheatham – four (4) to five (5)

Dickson – four (4) to five (5)

Houston – one (1) to two (2)

Humphreys – four (4)

Stewart – three (3) to four (4)

However, based on the Judge's schedule the number of days may vary. During the off months a county may have scheduled Chancery to cover various emergency motions, petitions, and other cases.

## LOCAL RULES

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### GENERAL – RULE 1

#### **RULE 1: PURPOSE AND APPLICABILITY**

- 1.01. **Purpose** – It is the intent of these rules to establish local procedures for the Twenty-Third Judicial District which are not inconsistent with, and not adequately covered by statutes, cases, Rules of Civil Procedure, Rules of Criminal Procedure, and Rules of Evidence.
- 1.02. **General Rules Not Abrogated** – The Tennessee Rules of Civil, Criminal and Appellate Procedure, of Evidence, and the Codes of Professional Responsibility and Judicial Conduct, will be given full faith and credit.
- 1.03. **Former Rules Abrogated** – All former rules of local practice are abrogated except as re-adopted herein.
- 1.04. **Suspension of Rules** – Whenever the Court determines that justice requires it, the Court may suspend any of the foregoing local rules.

### LOCAL CIVIL RULES – RULES 2 THROUGH 15

#### **RULE 2: FILING AND SERVING OF PAPERS**

- 2.01. **Filing with the Clerk** – All pleadings, motions, proposed judgments and orders shall be filed with or submitted to the Clerk. Briefs, as set out under Local Rule 7.03, shall be filed with the Clerk with a copy to the Judge scheduled to hear the motion or trial ten (10) days prior to the date of the motion or trial.
- 2.02. **Certificate of Service** – All papers must contain a certificate of service to opposing parties/counsel which must contain the date of service, the name of the person or person served, address where served, and the method of service. The Clerk may refuse to file papers not having a certificate which complies with these rules and all applicable rules of Civil, Criminal or Appellate Procedure.

#### **RULE 3: SETTING, CONTINUANCES, AND MEDIATION OF CIVIL CASES**

- 3.01. **Setting of Non-Jury Trials** – Except for Chancery days which may be set by the Clerk & Master, cases shall be set for bench trial in one of the following ways:
  - (a) By agreement of counsel;
  - (b) By motion; or
  - (c) By the Court with subsequent notice to counsel.

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Non-jury trials which are anticipated to require two (2) hours or less may be set by agreed order on the regularly scheduled non-jury days. Cases requiring longer than two (2) hours may be set by agreement after consultation with the Judge's Office. All motions to set and orders setting a case for trial will include a statement of how long the attorney anticipates the case will take for trial.

- 3.02. **Certifying Cases To Set for Non-Jury Trial** – When a case is set by agreement or by motion without objection, all counsel are certifying that they, their clients, and their necessary witnesses will be available for trial on that trial date, and all discovery has been completed prior to the selected trial date.
- 3.03. **Setting of Jury Trials** – Chancery and Circuit civil trials requiring a jury shall be scheduled with the secretary of the judge.
- 3.04. **Certifying Cases To Set for Jury Trial** – Chancery and Circuit civil jury trials will require a filing of a Certificate of Readiness certifying completion of mediation and all pre-trial matters, including but not limited to the completion of discovery, depositions, motions for summary judgment, etc., prior to being scheduled on the trial calendar.
- 3.05. **Deadline for Trial Preparation** – Where a case is set by the Court or by motion over the objection of one or more of the parties, the Court will specify a reasonable time with which discovery is to be completed and specify a trial date which falls at least fifteen (15) days thereafter. The failure to have completed discovery, inability to take a deposition, or failure to have completed any other trial preparation will not be grounds for a continuance.
- 3.06. **Mediation** - All civil cases, except for General Sessions Appeals, to be set for trial will require proof of mediation before a case is set, proof of payment of any and all Court ordered mediation services shall be filed with the Clerk. The Court may, upon its discretion, order mediation on a General Sessions appeal. Waiver of mediation may be requested by motion.
- 3.07. **Special Master** - Before a case is set for trial, proof of payment of any and all Court ordered special master services shall be filed with the Clerk. If a party refuses to pay their Court ordered share of the expenses, the case may be set for trial and the Court reserves the right to assess any unpaid fees in the final judgment.
- 3.08. **Continuances**
  - (a) Cases may be continued only by leave of the Court.
  - (b) Motions for continuance must be supported by sworn affidavit, unless waived by the Court.
  - (c) An agreement to continue may be allowed without an affidavit with leave of the Court.
  - (d) Absence of a witness will not be grounds for a continuance unless a subpoena has been issued for that witness, as provided for by the Rules of Procedure affecting the case, more than ten (10) days prior to the date of trial.
  - (e) Motions set for hearing may be continued only by agreed order between parties with notice to the Clerk.
  - (f) Trials set for hearing may be continued only by agreed order between parties by resetting the trial and by leave of the Court.
- 3.09. **Setting Out of County** – Venue may be waived by agreement of all parties to have a case heard out of county, but within the district, pending approval of the Judge. Out of county cases will be scheduled after the regularly scheduled docket or may be specially set. Civil jury trials may not be set out of county.

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### **RULE 4: GENERAL SESSIONS APPEALS IN CIVIL CASES**

- 4.01. **General Sessions Appeals** – Will be placed upon the docket for the following Civil Motion day for the purpose of obtaining a trial date by the judge.

### **RULE 5: MOTIONS IN CIVIL CASES**

- 5.01. **Motions** – Motions will be set on scheduled motion days by notice as provided in the Tennessee Rules of Civil Procedure, a minimum of five (5) court days before the scheduled hearing for said motions.
- 5.02. **Motion for New Trial, Judgment N.O.V., Alter or Amend** - Such motions should be accompanied by a citation of authority and written argument which the moving party wishes the Judge to consider. No such motion will be sustained by the Judge without affording the adverse parties an opportunity either to file responsive briefs and written argument or to be heard in oral argument. If one party requests oral argument, both parties shall be given an opportunity to be heard.
- 5.03. **Motion to Compel** – The Court will refuse to rule on any motion related to discovery unless moving counsel files with the Motion a statement which certifies that the lawyer has conferred with opposing counsel in a good faith effort to resolve the discovery dispute and that the effort has not been successful.

### **RULE 6: PRETRIAL PROCEDURE IN CIVIL CASES**

- 6.01. **Pretrial Motions** – Must be filed or scheduled for hearing not later than the Court's last regular motion day before the scheduled trial date. Except for good cause shown, no motions, including motions to exclude testimony, will be heard on the day of trial.
- 6.02. **Pretrial Requirements** – In all civil actions set for trial on the merits, the following must be submitted no later than then (10) days prior to the trial date:
- (a) The names and addresses of all witnesses shall be furnished to opposing counsel (not applicable to rebuttal witnesses);
  - (b) Copies of all exhibits which are proposed to be offered shall be furnished to opposing counsel. When it is impractical to copy exhibits, the proposed exhibits shall be made available for inspection upon reasonable notice. Exhibits to be used solely in rebuttal are excluded.
- 6.03. **Pretrial Briefs** - In all civil non-jury cases (domestic cases excluded) and all motions for summary judgment, a pre-trial brief along with courtesy copies of any depositions expecting to be entered shall be provided to the Judge no later than ten (10) days prior to trial or date of hearing. Responsive briefs shall be filed within five (5) days. The Judge's copy may be sent by any electronic means available but preferably by email or hand delivery. (This Rule does not alter the requirements of T.R.C.P. 56. It is only intended to provide the judge a copy prior to the hearing and/or trial). The purpose is to reduce the number of cases requiring matters to be taken under advisement by providing the trial judge with all relevant information prior to the trial.
- 6.04. **Interrogatories** – Discovery in all cases shall be limited to no more than fifty (50) questions including subparts, unless permission is granted by the Court to file additional questions.
- 6.05. **Jury Instructions** – Shall be provided to the Judge fourteen (14) days prior to the scheduled trial. Requests shall be made by reference to T.P.I. (Civil) number. Modification to T.P.I. shall be identified. Special jury instructions not found in T.P.I must be requested in fact. Jury instructions shall be furnished to opposing counsel.



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### **RULE 7: ORDERS AND JUDGMENTS IN CIVIL CASES**

- 7.01. **Preparation and Submission** – Unless the court directs otherwise, attorneys for prevailing parties will prepare orders for entry by the court. Orders approved for entry by counsel for all affected parties must be received not more than twenty (20) days following the day on which the ruling is made by the court. If, with ten (10) days following receipt of such an order there has been no proposed order submitted by opposing counsel, the Judge will assume that opposing counsel waives any objection with respect to accuracy and form. If the Clerk has not received an order in a case within thirty (30) days, a show cause shall issue for the next civil motion day. If the order is filed prior to the next civil day, the show cause will be stricken.
- 7.02. **Non-Minute Entry Orders** – Orders not affecting the legal course of an action, such as orders setting a case for trial or acting upon a request for a continuance, may be designated by the Clerk as a non-minute entry order. Such designated order shall be placed in the file of the case but not spread upon the minutes of the Court.
- 7.03. **Court Costs**
- (a) All final judgments shall provide for the taxing of court costs;
  - (b) Whenever it appears to the Clerk that a judgment has been satisfied but court costs have not been paid, the Clerk may apply to the Court for a re-taxing of court costs. The Clerk shall notify the parties of the application and the date and time to be considered by the Court.

### **RULE 8: PROCEDURES FOR DIVORCES AND CHILD PARENTING HEARINGS**

- 8.01. **Filing** – All divorces shall be filed in Chancery Court.
- 8.02. **Temporary Parenting and Support Hearings and Orders**
- (a) **Agreement of Parties** – where the parties with minor children can agree upon temporary parenting and of support arrangements, a Temporary Parenting Plan substantially in the form available at the Administrative Office of the Court's website at [www.tncourts.gov](http://www.tncourts.gov), shall be prepared and submitted to the Court. If approved by the Court, the plan will govern the parenting and support arrangements between the parties during the pendency of the divorce action.
  - (b) **Failure of Parties to Reach an Agreement** – if the parties cannot agree upon a Temporary Parenting Plan, the issue may be mediated or brought before the Court on motion. At the hearing of this issue, each of the parties to the divorce action shall submit a proposed Temporary Parenting Plan and shall submit an affidavit of income and expenses in the form available at the Administrative Office of the Courts' website at [www.tncourts.gov](http://www.tncourts.gov). The Court will either adopt one of the plans submitted, appropriately alter and adopt one of them or may, in the court's discretion, hear additional testimony before determining a Temporary Parenting Plan.
  - (c) Parenting plans and income and expense forms will be available in each Clerk's office.
  - (d) The first temporary hearing should only be set upon failure of the parties to reach an agreement on temporary matters that must be resolved prior to the Final hearing. Additional temporary hearings will only be set in emergencies.
- 8.03. **Contested Divorce and Parenting Actions**
- (a) Within ten (10) days of the date of the final hearing of a contested divorce action and/or a parenting plan action, each of the parties shall file and serve upon the adverse party:
    - (1) Their agreed or proposed Permanent Parenting Plan (available at the Administrative Office of the Courts' website at [www.tncourts.gov](http://www.tncourts.gov));
    - (2) An Asset and Liability Statement (available at the Administrative Office of the Courts' website at [www.tncourts.gov](http://www.tncourts.gov));

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- (3) Their request for relief;
  - (4) Whether they have attempted mediation and, if not, a statement justifying their refusal to mediate;
  - (5) Their certificate of attendance from the parent education seminar.
  - (b) Prior to setting a case for trial on divorce and parenting actions, on Motions to Set the Court or Clerk & Master will review and determine:
    - (1) Whether parties have attended the parenting seminar as required by Rule 9.03(a)(5), above;
    - (2) Whether the parties have attempted mediation and, if not, whether a statement has been filed justifying reasons statutory requirements of mediation have not been met;
    - (3) Whether the Court should appoint a special master or Court's expert for the purpose of assisting the Court in determining the value of the assets of the parties; and
    - (4) Whether other orders of the Court might facilitate the proceedings.
  - (c) If the Court is satisfied the case is ready for trial the action will be set for a date certain.
- 8.04. Non-Contested Divorces and Parenting Actions**
- (a) Non-Contested divorce hearings where the divorce is grounded on irreconcilable differences or is submitted on stipulated grounds, it is not necessary to move for a default judgment provided the facts giving the Court jurisdiction of the parties and the subject matter are recited under oath either in the complaint or by separate affidavit.
    - (1) A defendant who has not filed an answer in a non-contested divorce must specifically waive service of process and the filing of an answer in the marital dissolution agreement or by separate affidavit. The waiver of service must appear on page one (1) of the Marital Dissolution Agreement.
    - (2) Pro Se non-contested divorces will be set on the docket for final entry with a thirty (30) day notice by an agreed order to set by both parties.
  - (b) Non-Contested divorces with children must have reached an agreement of parenting and submit to the Court a Permanent Parenting Plan in the form available on the Administrative Office of the Courts' website at [www.tncourts.gov](http://www.tncourts.gov). Parties to a non-contested divorce action who have minor children may incorporate a permanent parenting plan in the same form into their marital dissolution agreement. A plaintiff with minor children who seeks a divorce after a judgment for default shall submit to the Court a proposed permanent parenting plan in the same form at the final hearing for divorce.
- 8.05. Sworn Statement in Divorce Action**
- (a) In all contested divorce actions, both parties shall file a sworn statement of assets, liabilities and sources and amounts of income at least ten (10) days prior to the hearing of the action. A copy of the sworn statement shall be served upon opposing counsel. Sworn financial statements shall include but not be limited to the following:
    - (1) A statement of current earnings;
    - (2) A list of specific present assets accumulated during the marriage;
    - (3) Assets owned by each spouse but not accumulated during the marriage; and
    - (4) A list of present liabilities accumulated during the marriage.
  - (b) Complaints which include requests for pendent lite relief which are set for hearing shall include a statement of facts justifying the relief sought.
  - (c) In divorce hearings, either final or temporary, involving alimony and/or child support issues shall have a property and income and expense statement in the form available at

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the Administrative Office of the Courts' website at [www.tncourts.gov](http://www.tncourts.gov), and as appropriate, shall be filed with the Clerk with copy furnished to opposing counsel. The parties may also include a proposed division of property and indebtednesses.

- (d) A violation of the above may be grounds for a continuance but shall not be grounds for exclusion of the evidence. The party not in compliance may expect sanctions including but not limited to taxing of attorney fees.

- 8.06. **Effective Date** – The provisions of Rule 9 shall apply to all actions filed after the filing of these Rules.

### **RULE 9: ADOPTIONS**

- 9.01. **Filing** – All adoption petitions shall be filed in Chancery Court.

- 9.02. **Adoption by Step-Parents and Relatives** – Cases where the adopting parents are the grandparents, the aunt or uncle or the step-parent of the child or children to be adopted, shall not be set for adjudication by the Clerk until the following documents have been filed:

- (a) The birth certificate or certificates of the child or children;
- (b) A certified copy of the marriage license of the adopting petitioners;
- (c) A certified copy of the final judgment of divorce in the event either of the adopting petitioners have previously thereto been married to another spouse;
- (d) A death certificate if either natural parent be deceased;
- (e) A death certificate if either petitioner's former spouse if said spouse is deceased.

- 9.03. **Presentation of Testimony** – The testimony of adopting petitioners may be presented in person or, in the event the adopting petitioners are not within the State of Tennessee at the date of adjudication, by interrogatory or deposition.

- 9.04. **Attendance of Adoptive Child** – The child or children involved in said adoption shall attend the adjudication.

### **RULE 10: ACCOUNTINGS – RETURN OF SUPPORTING DOCUMENTATION TO FIDUCIARY**

- 10.01. **Accounting** – In connection with any accounting where the fiduciary is required to produce supporting documentation, such as, but not limited to, canceled checks, bank statements, receipts, etc., the Clerk shall have the right, as set forth to return the supporting documentation to the custody of the fiduciary for safekeeping. Such a return of documentation shall not occur until the Clerk has reviewed and approved the accounting and at least thirty (30) days have elapsed from the date the Court approves the accounting and it is recorded.

### **RULE 11: EXTRAORDINARY INTERLOCUTORY RELIEF**

- 11.01. **Restraining Orders** – Proposed restraining orders shall be prepared by counsel prior to submitting the request for relief to the Court. Except in domestic relations cases, the restraining order shall provide for the setting of a bond as a condition to the entry of the restraining order. The restraining order shall further provide for the setting of a hearing for temporary injunction and shall provide a place thereon for the Court to set a date, time and location for such a hearing. Requests for extraordinary relief must comply in all respects with T.R.C.P. Rule 65, Section 15.02 Hearings. Except for domestic relations cases, all applications for temporary injunctions and other forms of extraordinary interlocutory relief shall be heard upon sworn pleadings or affidavit and/or deposition unless a party, prior to the time of the hearing, requests and obtains permission of the Court for the introduction of oral testimony and so notifies all other counsel of record.

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### **RULE 12: DISMISSAL FOR LACK OF PROSECUTION**

- 12.01. **Dismissal** – Whenever a cause has remained on the rule docket for twelve (12) months or more without activity, either party or the Clerk may move the Court to dismiss the cause for lack of prosecution. After notice is given to all parties, the motion shall be heard by the Court and the Court shall either set the case for hearing or dismiss the case.

### **RULE 13: INVESTING FUNDS PER COURT ORDER**

- 13.01. **Funds** – The Clerk’s office shall invest litigant funds paid into court only if there is a court order directing them to do so. The order should state the name of the financial institution in which the funds are to be invested and the specific type of account to be utilized. 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.

### **RULE 14: WORKER’S COMPENSTION CASES**

- 14.01. **Worker’s Compensation Cases** – Shall be filed in the Chancery Court.

## **LOCAL CRIMINAL RULES – RULES 15 THROUGH 24**

### **RULE 15: SETTING CRIMINAL CASES FOR TRIAL**

- 15.01. **Setting Criminal Cases** – Criminal cases will be set for trial:

- (a) On the arraignment date;
- (b) On the date set for trial when crowded off the docket by agreement between the District Attorney or Assistant District Attorney and the Defendant and his/her attorney;  
or
- (c) By the court upon motion of either party or on its own motion with a minimum of a five (5) day notice to the respective parties or attorneys.

It is expected that a case where the defendant is charged with a crime of violence involving death or serious bodily injury shall be given priority in scheduling and selection of cases for trial over cases not involving such a charge.

### **RULE 16: CONTINUANCES**

- 16.01. **Criminal Case Continuances** – Criminal cases will be continued:

- (a) Only with approval of the Court;
- (b) Filed in writing, shall state the reason the continuance is being sought, and unless waived by the court, shall either be sworn to or be supported by sworn affidavit,;
- (c) No agreements to continue a case will be approved unless a date has been agreed upon for resetting the hearing or trial being continued;
- (d) Granted by the court absent an agreement, upon written motion after notice to opposing counsel specifying the time and place a continuance will be sought;
- (e) Absence of a witness will not be grounds for a continuance unless a subpoena has been issued for that witness more than ten (10) days prior to the date of trial;
- (f) Any request for a continuance in a case were the defendant is charged with the crime of violence involving death or serious bodily injury that will cause the trial of the case to be delayed beyond 180 days from the date of the indictment shall be accompanied by a

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proposed certificate in compliance with Tenn. Code Ann. § 40-38-105 setting forth the reasons the case is still pending before the court.

### **RULE 17: APPEALS FROM GENERAL SESSIONS AND MUNICIPAL COURTS**

17.01. **Lower Court Appeals** – All criminal cases appealed from general sessions and municipal courts shall be set on the circuit court’s next docket day for setting a trial date. Jury demand must be stated on or before that first circuit court docket day. If the defendant fails to appear, after proper notice and without good cause, the appeal shall be dismissed at the defendant’s cost and the case remanded to the lower court for enforcement of judgment.

### **RULE 18: ARRAIGNMENT**

18.01. **Arraignment** – At the time of arraignment, the Court shall designate a plea date and trial date. On the arraignment date, the Court will:

- (a) Consider any plea bargain agreements between the District Attorney General and the Defendant and his/her attorney;
- (b) Hear or set for date certain pretrial motions filed by either party; and
- (c) Determine whether there are pretrial motions which cannot be heard either in accordance with these Rules or for reasons of fairness to the respective parties and, if so, set those motions for appropriate disposition.

### **RULE 19: MOTIONS AND DISCOVERY**

19.01. **Discovery** – From the time of arraignment, each defendant shall have a period of twenty (20) days within which to file.

19.02. **Motions** – From the time of arraignment, each defendant shall have a period of thirty (30) days with which to file pretrial motions, scheduled on a criminal motion day or a day approved by the court prior to the plea date.

19.03. **Motions to Suppress** – Motions to suppress evidence must be filed with twenty (20) days of the date the state has complied with a request for discovery.

19.04. **Extension** – The court at arraignment or thereafter upon motion may extend the period for filing pretrial motions upon good cause shown.

19.05. **Notice** – Motions require a five (5) business day notice to all parties before being placed on the criminal docket.

### **RULE 20: PRETRIAL DIVERSION**

20.01. **Pretrial Filing Deadline** – Applications for pretrial diversion shall be filed with the Office of the District Attorney General within thirty (30) days from the receipt of discovery unless otherwise extended by the Court.

### **RULE 21: PLEAS**

21.01. **Waiver** – The Defendant’s attorney may ask the Court to waive appearance on this day if a trial date has been set and no plea will be entered. Waivers of appearance will not be accepted for Violations of Probation/Community Corrections.

21.02. **Defense** - Prior to the plea date for each particular case, it shall be the responsibility of the Defendant or his/her attorney to file a motion for review to be scheduled on a criminal motion day to advise the court of the following:

- (a) That the State has failed to respond to a request for discovery filed;
- (b) That a pretrial motion is pending or that the time for filing pretrial motions in accordance with these Rules has not expired;

## 23rd Judicial District Local Rules of Practice

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- (c) That an application for pretrial diversion is pending;
  - (d) That an application for pretrial diversion has been denied and the Defendant intends to seek review of that denial; or
  - (e) That there has been an adverse determination upon a review of the denial of pretrial diversion and the defendant intends to appeal that determination.
- 21.03. **District Attorney General** - Prior to the plea date for each particular case, it shall be the responsibility of the District Attorney General, or his/her assistant to advise the Court that the Defendant has failed to respond to a reciprocal request for discovery to be scheduled on a criminal motion day.
- 21.04. **Notice**
- (a) A two (2) day notice to the Clerk in writing by fax, email or traditional filing will be required for a case to be placed on the docket for disposition prior to the scheduled plea or revocation date. No cases will be added to the docket on the day of court.
  - (b) A fifteen (15) day notice to the Clerk is required if the Defendant is incarcerated in an out of county jail for proper transport.
- 21.05. **Passing Plea Date** - These provisions not only apply to defendants out on bond but also incarcerated defendants.
- (a) All pleas should be entered by the last criminal non jury day before trial. If a jury is called in and the case is continued or pled out, the court reserves the right to assess jury costs to the appropriate party. In order for a case to be placed on a criminal non jury docket day, the Defendant's attorney is to set said case with the Clerk of the Court at least two (2) days prior to said criminal non jury day unless otherwise waived by the Court for good cause.
  - (b) The deadline for acceptance of a negotiated disposition will be the scheduled plea date, the Court may refuse to accept a negotiated disposition on the trial date unless the interests of justice otherwise dictate.
  - (c) The Court may consider it sufficient grounds to revoke bond for non-compliance should the Defendant pass his/her plea date and appear on the scheduled trial date requesting the Court to grant additional time.
- 21.06. **Form** – All plea agreements must be accompanied by a plea form provided by the Court Clerk or District Attorney General requiring the Defendant's signature as to awareness of his/her right to a trial and details of the plea agreement. (See Appendix A)
- 21.07. Upon the determination of the existence of any of the circumstances set forth in this section, the trial Court may continue the plea and trial date and may make such further orders as may be appropriate for the timely disposition of pretrial proceedings. Any circumstance not called to the attention of the Court in accordance with this section shall not be considered as a ground for continuance of the trial of the case.

### **RULE 22: SEQUESTRATION OF JURY**

- 22.01. **Request for Sequestration** - Except in capital cases, both the Defendant and the State shall be deemed to have waived any right they may have to a sequestered jury unless a written request has been filed with the Clerk of the Court at least ten (10) days prior to the trial date.

### **RULE 23: ORDERS AND JUDGMENTS**

- 23.01. **Judgment** - Preparation of judgments shall be as follows:
- (a) Upon plea agreement, the District Attorney General shall prepare the judgment document and present for signature on the day of plea;

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- (b) Upon completion of sentencing, a proposed judgment document shall be prepared by the District Attorney General for approval;
- 23.02. **Credits on Judgments** – All judgments and revocation orders shall indicate any pre-trial jail, program, and/or jail credits owed to the Defendant. It is the responsibility of the Defendant’s attorney to obtain said dates prior to entry of the plea agreement or revocation agreement and must be included on all judgments if applicable. Disposition of the case will not relieve this responsibility of the Defendant’s attorney.
- 23.03. **Orders** – When directed by the Court, counsel will prepare orders for entry.
  - (a) All orders prepared by counsel, except for judgment documents, shall be filed with the Clerk and served on opposing counsel;
  - (b) Counsel who has been served with a proposed order prepared by counsel at the direction of the Court shall immediately notify the Judge of any disagreement with the contents of the proposed order;
  - (c) Objecting counsel of an order shall, within ten (10) days submit a revised order and serve a copy on opposing counsel and opposing counsel shall immediately notify the Judge of any objection to the contents of the revised order.
  - (d) The Court will either approve one of the competing orders submitted with notice to counsel, schedule a conference in chambers, or set the matter for hearing;
  - (e) If the Court does not receive notice of any objection to any proposed order or to any revised order submitted in accordance with this Rule, the order will be presumed correct and will be entered unless amended by the Judge.

### **RULE 24: PROFESSIONAL BAIL BONDSMEN**

- 24.01. **Eligibility** - No individual, partnership, corporation, joint venture, or other business organization shall be either a principal or an agent for more than one bonding entity.
- 24.01. **Petitions for Approval** – Any bonding entity wishing to make bail bonds in the Twenty-Third Judicial District must apply and be approved by the Circuit Court and a copy of said petition served upon the District Attorney General. Petitions for approval must contain the following:
  - (a) The business name the bonding entity will be operating under along with the physical street address, mailing address, and local business telephone number for the physical bonding office;
  - (b) Copy of the business license issued for the bonding company in said county;
  - (c) Copy of all organizational documents:
    - (1) Corporate charter, partnership agreement and all other agreements or documents pertaining to the identity of the owners and interest holders of said company;
      - (i) each owner and interest holder must have a full criminal background history of all prior criminal charges, if any, whether resulting in a conviction or not, along with the disposition of the charge and jurisdiction;
      - (ii) proof of two (2) years’ experience writing bail in Tennessee as a full-time qualified agent for a Tennessee professional bonding company in good standing;
      - (iii) a list of pending and any final civil litigation seeking and resulting in monetary damages or injunctive relief against the owner or interest holder or a statement that no such litigation is pending or no such judgments exist. Pending and final litigation must include all case identification information and summary of claim;

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- (iv) a statement describing any relations to any other owner, interest holder or agent of a bail bonding company authorized to do business in Tennessee;
- (v) a statement as to whether such owner or interest holder has ever been an owner, interest holder or agent for any other bail bond company in Tennessee or any other state.
- (2) The source of all funds used to establish the company;
- (3) The names and signatures of those persons who accept personal liability for forfeiture judgments;
- (4) Financial statement including all assets and liabilities with account numbers and other pertinent information needed for identification and verification. Liabilities shall include forfeitures and liabilities of the bonding entity in other judicial districts where entity is currently, or has been, approved to make bonds;
- (5) A statement of whether any owner or interest holder has individually or as a corporation holder been discharged in a bankruptcy proceeding leaving unsatisfied outstanding forfeitures with any court.
- (d) A statement of whether the company or any of its owners, shareholders, or partners write bonds in any other jurisdictions;
- (e) Identify funds and source of said funds to be filed with the Clerk to establish bonding capacity;
- (f) Proof of security lodged with the Court in compliance with Rule 26.02 Collateral;
- (g) A statement of whether or not the bonding entity has filed for bankruptcy protection and, if so, all case information and type of bankruptcy;
- (h) A list of proposed agents the entity is wishing to employ including:
  - (1) The full name and any aliases of the agent;
  - (2) Residential address of the agent;
  - (3) Phone number for the agent;
  - (4) Each bonding agent's Certificate of Compliance with the requirement for continuing education for professional bail bonding agents as set forth in Tenn. Code Ann. § 40-11-401;
  - (5) List of any states other than Tennessee the agent has resided;
  - (6) Date of birth and social security number;
  - (6) A full criminal background history (ORI and instructions may be obtained from the Dickson County Circuit Court Clerk for compliance with this Rule and Tenn. Code Ann. §40-11-317).

### 24.02. Collateral

- (a) All security lodged with the Court shall be unencumbered and shall not be pledged, cancelled or released while the entity remains liable on any bail bond with the Twenty-Third Judicial District.
- (b) As security, each bonding entity shall file with its application, one of the following:
  - (1) A certified check in the minimum amount of Fifty Thousand Dollars (\$50,000.00) made payable to the Circuit Court Clerk. The Circuit Court Clerk shall obtain a Certificate of Deposit for Fifty Thousand Dollars (\$50,000.00) in the joint names of the bonding entity and the Circuit Court Clerk of the county where the application has been filed, naming the Circuit Court Clerk as the Custodian of said Certificate of Deposit, at a federally insured financial institution of the Clerk's choice; or



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- (2) A Deed of Trust on unencumbered real property which has a minimum appraised value of Fifty Thousand Dollars (\$50,000.00) together with a title opinion letter prepared by a licensed attorney and an appraisal of the market value of the property (may be a certified copy of the county tax appraisal for said unencumbered real property). The Deed of Trust must be made to the Circuit Court Clerk of the county in which the application has been filed, as trustee, to secure bail bonds made in the Twenty-Third Judicial District; or
- (3) A cash deposit of a minimum of Fifty Thousand Dollars (\$50,000.00) with the Circuit Court Clerk of the county where the application is filed; or
- (4) An irrevocable letter of credit in the minimum amount of Fifty Thousand Dollars (\$50,000.00) from any financial institution located within the Twenty-Third Judicial District. The county attorney where the application has been filed or another attorney approved by the Court must approve the letter of credit; or
- (5) If the bonding entity is a licensed insurance company which has qualified under the statutory scheme provided by the insurance laws pursuant to Title 56 of the Tenn. Code Ann.:
  - (i) a letter from the office of the Commissioner of Commerce and Insurance for the State of Tennessee, certifying that based upon the latest filing of the requisite quarterly financial statements, the bonding entity/insurance company remains in good standing with the Department of Commerce and Insurance;
  - (ii) a Certificate of Compliance from the Department of Commerce and Insurance certifying its authority to transact business in the State of Tennessee.

### 24.03. Bonding Limits

- (a) Each bonding entity posting security as provided in Rule 26.02 shall be authorized to make bonds in a capacity consistent with Tenn. Code Ann. § 40-11-302 which shall be not more than ten (10) times the amount of the collateral pledged or not more than ten (10) times the value of the equity in real estate pledged as collateral.
- (b) Each approved bonding entity may make bail bonds in the county where the application is filed and in any other county within the judicial district. Each bonding entity shall keep the total amount of all bail bonds made within the judicial district within the limits approved by the Court. Any bonding entity that exceeds the limits established by the Court shall be subject to removal as an approved bonding entity.

### 24.04. Forfeitures

- (a) A bonding entity shall not be allowed total final forfeitures in the Circuit and General Session Courts in excess of fifty percent (50%) of the amount of collateral posted with the Court Clerk.
- (b) Upon any forfeiture becoming final pursuant to Tenn. Code Ann. § 40-11-139, the bonding entity shall be required to pay the bond and costs of the proceedings within thirty (30) days of the date the final forfeiture becomes final. The bonding entity may petition the Court in writing for an extension of time before the forfeiture becomes final.
- (c) Should a bonding entity refuse or neglect to pay the forfeiture within the thirty (30) day period, the bonding entity and its agents shall be suspended from making further bonds and the Court will levy an execution upon the security deposited with the Court or the assets of the bonding entity.

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- (d) No bonding entity shall be released or allowed to withdraw from a bond without first filing a motion in writing with the Court and being approved to withdraw.
- (e) Upon any surrender, voluntary or involuntary, said bond shall be considered to be revoked and no bond may be made until a motion is made and a hearing is held by the Court.

### 24.05. Premiums

- (a) As provided by Tenn. Code Ann. §40-11-126, no bondsman shall accept anything of value from a principal or anyone acting on his/her behalf except the authorized premium and initiation fees as governed by Tenn. Code Ann. §40-11-316. All funds or negotiable instruments accepted in payment or in satisfaction of the premium and the initiation fee shall be recorded and itemized by the bonding company. A copy of said record documenting the premium and initiation fee received shall be provided to the defendant, or the agent acting in the defendant's behalf, and shall be maintained as part of the ordinary daily business of said company. If funds or negotiable instruments are accepted as collateral, the bonding company shall:

- (1) Deposit such collateral into a separate trust account pending its redemption;
- (2) Shall identify the account or principal to which the collateral applies; and
- (3) Shall provide the person providing the collateral with the identity of the institution in which the collateral is held.

In the event a bail bonding entity receives funds for a premium or initiation fee and elects not to post the bond for the defendant/principal, then any funds received shall be immediately returned to the defendant or the person acting on the defendant's behalf.

- (b) Any bond in the amount of Fifty Thousand Dollars (\$50,000.00) or more may be subject to compliance with Tenn. Code Ann. §39-11-715 pertaining to the source of said bond by request of the District Attorney General.
- (c) No bond in excess of Seventy-Five Thousand Dollars (\$75,000.00) shall be made without a hearing before the Circuit Court to determine compliance with Tenn. Code Ann. §39-11-715 pertaining to the source of said bond.
- (d) Bonding entities are expressly prohibited from making credit bonds on cases where the total bonds for the defendant exceed Twenty-Five Thousand (\$25,000.00). No funds or partial payment in satisfaction of the premium may be received following release of the defendant/principal from custody for bonds for any single defendant in excess of Twenty-Five Thousand (\$25,000.00), except as authorized by Tenn. Code Ann. §40-11-316 or other applicable law.
- (e) No bond may be secured, guaranteed, or otherwise indemnified by a contract which purports to be a promissory note, indemnification contract, hold harmless agreement, or guaranty from a company, or bondsman not approved as a bonding entity by the Court.
- (f) Every bondsman and/or agent must use a duplicate receipt book to record all payments for premiums. A copy of the receipts must be given to the defendant or the person acting on their behalf. Receipts must include:
  - (1) Specific description of all property, including cash or checks, received from the defendant or someone acting on the defendant's behalf, and
  - (2) Signature of the defendant or the person acting on his/her behalf tendering the said funds.

### 24.06. Required Records, Company Changes, and Reports

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- (a) It shall be the responsibility of the bonding entity that all bonds shall be fully completed upon the release from custody of the defendant/principal on bond. The bail bond contract shall:
- (1) Have the name, address and zip code number of the defendant legibly printed thereon;
  - (2) Be signed by the agent making said bond;
  - (3) Have the name of the bonding company and agent boldly and legibly stamped or printed thereon;
  - (4) Identify the property used to pay the premium and initiation fee as well as any other property received as collateral for said bond; and
  - (5) Have a copy of a photo identification of all persons (except the defendant/principal) delivering such premiums, fees or collateral to the agent if the bond is Fifty Thousand Dollars (\$50,000.00) or above.
- (b) Any changes to a bonding entity's company address or telephone number noted in the original petition must be sent in writing to the Circuit Court Clerk.
- (c) Any changes to a bonding company's name, ownership, or agents as indicated in the original petition must be submitted in writing and approved by Order of a Circuit Court Judge.
- (d) Any agent additions to a bonding entity will be subject to Rule 26.01(g) and must be submitted in writing and approved by a Circuit Court Judge.
- (e) Any bonding entity authorized to bond shall file with the Court Clerk a semi-annual financial report in compliance with Tenn. Code Ann. §40-11-303. Such reports shall be filed semi-annually due on January 15<sup>th</sup> and July 15<sup>th</sup>. Every report shall include:
- (1) Financial statement of bonding entity's current liabilities and assets updated on December 31<sup>st</sup> and June 30<sup>th</sup> respectively including but not limited to;
    - (i) real property owned by or used as collateral by the bonding entity along with amount of liens and mortgages and by whom held;
    - (ii) cash receipts, accounts and bills receivable totals from bonds for period along with contracts, stocks and bonds and other securities received held to secure payment of any debt owing to the bonding entity.
    - (iii) liabilities, accounts payable, debts, obligations and balances owing of the bonding entity;
    - (iv) list of all owners and interest holders with address, title and sworn signature as to accuracy of financial statement.
  - (2) List of all bonds made including but not limited to the following information:
    - (i) name of principal
    - (ii) address of principal
    - (iii) amount of bond
    - (iv) court and county
    - (v) charge
  - (3) List of conditional and/or final forfeitures or statement that none exist including:
    - (i) amount
    - (ii) court
    - (iii) county
    - (iv) case number
    - (v) date to be executed
  - (4) Names, address and phone number of each authorized bail bondsman

## 23rd Judicial District Local Rules of Practice

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- (5) Copy of semi-annual reports from other districts bonding entity is authorized to write bonds or statement that entity does not bond in other districts.
- (6) Sworn statement as to accuracy of semi-annual report by the owner or interest holder of the bonding entity.
- (f) January 15<sup>th</sup> report shall additionally include:
  - (1) Certificate of Compliance for education of all agents in accordance with Tenn. Code Ann. §40-11-402. This rule automatically notifies each bonding agent that is in non-compliance per Tenn. Code Ann. §40-11-403 that bonding privileges will be suspended until compliance;
  - (2) Valid yearly county business license of bonding entity;
  - (3) A statement of pending civil litigation proceedings against bonding entity or statement that none exist;
  - (4) A statement of pending bankruptcy proceedings or statement of non existence;
  - (5) A certified copy of unencumbered real property tax appraisal if used as collateral to show no owed taxes and current property worth;
  - (6) Updated power of attorney certificates if bonding entity is a licensed insurance company along with updated Certificate of Compliance from the Department of Commerce and Insurance.
- (g) Upon failure of any bonding entity to file a semi-annual report or any other record or document required by statute or these local rules, the Court Clerk shall notify the Circuit Court Judge who shall suspend and remove the company from the approved list. In such an event, the company shall not be allowed to write any bonds until such time as all the requirements are met. In the event the bonding entity disputes the suspension, it may petition the Court to reconsider the suspension.

### 24.07. Conduct of Bonding Entity and Agents

- (a) Every bonding entity acts as an agent of the Court and the conduct of the bonding company constitutes an integral part of the operation of the Court. The Court may impose any limits or conditions necessary to insure the professional standing and reliability of the bonding company. Such measure, if any, shall be made in the public interest to avoid conflict of interest or an appearance of impropriety of the bonding entity. The Court may take appropriate disciplinary action including the withholding, suspension or termination of the approval to do business if it appears to the Court that it is in the public interest. For good cause, the Court may issue a restraining order, writ or other process without notice to the company if deemed necessary in the public interest. Any such action will be reviewed a hearing within ten (10) days after the notice to the bonding entity and the District Attorney General.
- (b) Pursuant to the provisions of Tenn. Code Ann. §§40-11-125, 126 the Court may take appropriate disciplinary action including the withholding, suspension or termination of approval for a bondsman to act as agent for an approved bonding company, if the agent:
  - (1) Has been convicted of a crime of dishonesty, any felony, or any alcohol or drug related offense;
  - (2) Has a final judgment of forfeiture entered against the bonding company that remains unsatisfied which the agent authorized;
  - (3) Has failed to comply with any of these local rules; or
  - (4) Is guilty of unprofessional conduct.
- (c) Arrest of a bonding agent, whether misdemeanor or felony must be reported within seventy-two (72) hours in writing to the Circuit Court Clerk in compliance with Tenn.

## 23rd Judicial District Local Rules of Practice

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Code Ann. §40-11-319. No bonding agent may post bond on their own behalf or for any co-defendants, if any. An agent may be suspended from bonding in the District until disposition of such charges in accordance with Local Rule 26.07(a).

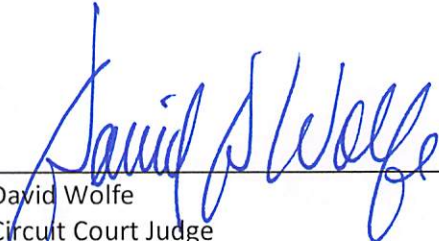
24.08. **Amendment to Bail Bondsmen Local Rules** – These Rules may be amended from time to time by the Circuit Court Judge. Upon amendment, all approved bonding entities in the Twenty-Third Judicial District, the District Attorney General, and Sheriffs will be notified in writing. Upon receipt of notice, all bonding companies shall comply with said amendments.

24.09. **Effective Dates**

- (a) These Local Professional Bail Bondsmen Rules shall become effective in the Twenty-Third Judicial District on December 15, 2014.
- (b) All petitions, bondsman applications, and semi-annual reports filed after the effective date must comply with these Local Rules.
- (c) Bonding entities previously approved in the Twenty-Third Judicial District prior to the effective date will be governed by these Local Rules for all new bonds made after December 15, 2014.
- (d) Full compliance with these Local Rules, including security requirements and bonding limits established by them, shall be mandatory for all bonding entities beginning April 15, 2015.

The foregoing Local Rules of Practice are applicable in the Circuit, Chancery and Criminal Courts of the Twenty-Third Judicial District. All standing orders not incorporated in these Rules are declared invalid and shall have not effect. Adopted and effective as of the 15<sup>th</sup> day of December 2014.

It is, accordingly, so **ORDERED**.

  
\_\_\_\_\_  
David Wolfe  
Circuit Court Judge  
Division I  
23<sup>rd</sup> Judicial District

  
\_\_\_\_\_  
Larry Wallace  
Circuit Court Judge  
Division II  
23<sup>rd</sup> Judicial District

  
\_\_\_\_\_  
Suzanne Lockert-Mash  
Circuit Court Judge  
Division III  
23<sup>rd</sup> Judicial District

# **APPENDIX A – PLEA AGREEMENT**

IN THE CIRCUIT COURT FOR \_\_\_\_\_ COUNTY, TENNESSEE

STATE OF TENNESSEE

VS. DOCKET NO. \_\_\_\_\_

PETITON TO ENTER PLEA OF GUILTY or NO CONTEST

I, the above named defendant, pursuant to Rule 11 of the Tennessee Rules of Criminal Procedure, respectfully state to the Court as follows:

1. My full legal name is \_\_\_\_\_
2. I am represented in this case by a lawyer, and the name of my attorney is \_\_\_\_\_
3. I received a copy of the indictment, presentment or information, which states the charge(s) against me, before I was required to plead to the charge(s). I have read and discussed indictment, presentment or information with my attorney.
4. I have fully disclosed the facts and circumstances surrounding the charge(s) against me.
5. My lawyer has told me, and I understand the definitional elements of the crime(s) with which I am charged; that is, my lawyer has explained to me what the State has to prove beyond a reasonable doubt to convict a person of the offense(s).

My attorney has also informed me in detail, and I understand what the State's evidence against me would be in regard to the charge(s).

My lawyer has explained all possible defenses I might have.

My attorney has counseled and advised me on all of these matters, and I understand them.

Thus, I believe I presently understand every charge against me.

6. My attorney has told me, and I understand that the punishment I could receive, including both possible incarceration and/or fine, is: [Set out range of punishment for the offense(s) charged and pleaded to, if different.]

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7. My attorney has explained that the Court will consider each count of each indictment, presentment or information to which I plead "GUILTY" or "NO CONTEST" as a separate offense, and may order that I serve the sentences for multiple offenses consecutively, that is, one after the other.
8. I understand that in making its sentencing determination the Court will consider all of my prior criminal convictions.
9. I understand that the Court's authority to impose punishment is the same if I plead "GUILTY" or "NO CONTEST" as it is if I plead "NOT GUILTY", have a jury trial, and I am convicted.
10. My attorney has discussed with me whether I am eligible for alternative sentencing, including probation. I understand my attorney's statements on this issue. Although, if eligible, I hope to receive probation or other alternative sentencing, I agree to accept any punishment which the law permits the Court to impose.
11. I understand that the Tennessee Constitution guarantees me the right to have any fine greater than fifty dollars (\$50.00) set by a jury. I wish to give up that right and want the Court to set any fine which is part of my punishment.

12. My attorney has explained enhanced sentencing to me, and I understand that if I am presently eligible for enhanced sentencing, I have a statutory right to a delay of ten (10) days after the State files a notice of intent to seek enhanced punishment before the Court accepts my plea of "Guilty" or "No Contest". I hereby acknowledge that I am subject to enhanced sentencing as a multiple, persistent and/or career criminal, and give up my right to the filing of such notice and/or to some or all of the ten (10) day waiting period before conviction.
13. I understand that my plea of "GUILTY" or "NO CONTEST" will be a criminal conviction on my record, and that if I am convicted of any crimes in the future, this conviction may be used against me as a basis for giving me greater punishment for the future conviction(s) as a multiple, persistent, and /or career offender.
14. I understand that I am presumed innocent of the charge(s) against me, and if I went to trial, the presumption would remain with me throughout the trial unless and until overcome by all of the evidence presented by the State.
15. I understand that I have the right to plead "NOT GUILTY" to any offense(s) charged against me and to persist in that plea, and that if I choose to plead "NOT GUILTY" the Constitution guarantees me (a) the right to a speedy and public trial by jury; (b) the right to see, hear and cross-examine all witnesses against me; (c) the right to use the power and process of the Court to compel the production of any evidence, including the attendance of any witnesses, in my favor; (d) the right to have the assistance of counsel in my defense at all stages of the proceeding; and (e) the right to remain silent and not to testify, and that my silence cannot be used against me. I understand that if I plead "GUILTY" or "NO CONTEST" I will be waiving my right to a jury trial and to the other rights set out above.
16. I understand that by pleading "GUILTY" or "NO CONTEST", I am giving up the right I would have if I were convicted by a jury to have an appellate court review the basis of my conviction.
17. I understand that in conjunction with my plea of "GUILTY" or "NO CONTEST" I may be asked questions about the offense(s) and if I answer those questions under oath, on the record, and in the presence of my attorney, and do not tell the truth, my answers could later be used against me in a prosecution for perjury, which is a crime punishable by incarceration and/or fine.
18. I declare that no government officer or agent (federal, state or local), or any other person, has made any promise or suggestion of any kind in exchange for my plea of "GUILTY" or "NO CONTEST", with the exception of the agreement between me and the State's attorney to recommend to the Court the plea and punishment set out in paragraph twenty-two (22) below.
19. I declare that no person has pressured, forced, threatened, or intimidated me into pleading "GUILTY" or "NO CONTEST".
20. I am satisfied with my legal representation and assistance in this case. I have had no problem communicating with my attorney.
21. I declare that during my discussions with my lawyer about this case, and while I read and/or discussed this petition with my lawyer, I was not under the influence of any alcoholic beverage or intoxicating drug.
22. I know that the Court will not ordinarily accept a plea of "GUILTY" or "NO CONTEST" from anyone who claims to be innocent, and with that in mind, and because I make no claim of innocence, I wish to plead \_\_\_\_\_ and respectfully request the Court accept my pleas as follows: [Set out plea bargain agreement with the State.]

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23. Prior Jail Credits for Defendant: \_\_\_\_\_



On the basis of my statements in this petition, I request that the Court accept my plea of "GUILTY" or "NO CONTEST".

I agree that the Assistant District Attorney General may summarize what the State's witnesses would say if called to testify in this case, and I give up my right to confront and cross-examine those witnesses.

Signed by me in the presence of my attorney, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
DEFENDANT

**CERTIFICATE OF DEFENDANT'S COUNSEL**

The undersigned, as attorney for the foregoing named defendant, \_\_\_\_\_,  
in Docket Number \_\_\_\_\_, hereby certifies as follows:

1. I have read and fully explained to the defendant the charge(s) against him/her as set out in the indictment, presentment or information. I have discussed with the defendant his/her knowledge of the facts and circumstances surrounding the charge(s). I have also discussed all the possible defenses with the defendant.
2. To the best of my knowledge and belief, each statement set forth in the foregoing petition is in all respects accurate and true.
3. The plea of "GUILTY" or "NO CONTEST", as offered by the defendant in paragraph twenty-two (22) of the foregoing petition, accords with my understanding of the facts as related to me by the defendant, and is consistent with my advice to the defendant.
4. In my opinion, the defendant's waiver of his/her constitutional and statutory rights is voluntary and understandingly made; and I recommend to the Court that the plea of "GUILTY" or "NO CONTEST" be now accepted and entered on behalf of the defendant as requested in paragraph twenty-two (22) of the foregoing petition.
5. I have explained to the defendant any/all potentially applicable forms of alternative sentencing, including probation.
6. I have read the foregoing Petition to Enter Plea of Guilty or No Contest to the defendant and/or discussed each provision with him/her in detail.

Signed by me in the presence of the defendant, this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
ATTORNEY FOR DEFENDANT

**CERTIFICATE OF DISTRICT ATTORNEY GENERAL**

I, \_\_\_\_\_, am the Assistant District Attorney General assigned to represent the State in the subject case. I certify that I have read the recommendation for the guilty plea and punishment set forth in paragraph twenty-two (22) in the foregoing Petition to Enter Plea of Guilty, and find that it accurately states the terms and scope of the plea agreement.

\_\_\_\_\_  
ATTORNEY FOR STATE

IN THE CIRCUIT COURT FOR \_\_\_\_\_ COUNTY, TENNESSEE

STATE OF TENNESSEE

VS.

DOCKET NO. \_\_\_\_\_

ORDER

This cause came to be heard before the undersigned Judge upon the defendant's petition to enter a plea of guilty or no contest and accompanying certificates of counsel, all of which are attached hereto and incorporated herein by reference. Based on the petition and certificates, and the defendant's responses to questions personally addressed to him/her by the Court under oath, on the record, and in the presence of his/her attorney, together with statements made by the parties' attorneys, the Court finds as a matter of fact:

1. That the defendant understands the nature of the charge(s) against him/her, the nature of the charge(s) to which the plea is offered, the mandatory minimum penalty provided by law, and the maximum possible penalty provided by law.
2. That the defendant understands that he/she has the right to plead not guilty and persist in that plea.
3. That the defendant has been fully advised and understands his/her right to trial by jury to determine guilt or innocence; that at such trial, he/she has the right to the assistance of counsel, the right to confront and cross-examine witnesses against him/her, and the right not to be compelled to incriminate himself/herself or to have an election not to testify used against him/her.
4. That the defendant understands that if he/she pleads guilty or no contest there will be no further trial of any kind except to sentence, so that by pleading guilty or no contest, he/she waives the right to a trial and appellate review of the conviction. The defendant understands that if there is a hearing as to sentencing, no jury will be involved.
5. That the defendant understands that if he/she pleads guilty or no contest, he/she may be asked questions about the offense(s) to which he/she has pleaded, and that such answers, made on the record, and in the presence of counsel, may, if untrue, form the basis for the later prosecution and punishment for the crime of perjury.
6. That the defendant fully understands that should the Court accept the plea of guilty or no contest and the recommended sentence, the sentence will constitute a conviction which, if considered with prior and/or subsequent convictions, may form the basis for enhanced punishment under T.C.A. §§ 40-35-106-108.
7. That the Court after inquiry is satisfied that the plea resulted from prior discussions between the District Attorney General, the defendant, and his/her attorney.
8. That the defendant's plea of "guilty" or "no contest", as well as his/her waiver of every right enumerated herein, is voluntary, and not made as a result of force or threats or the promises apart from the plea bargaining process.
9. That from the entire record the Court is satisfied that there is a factual basis for the plea of "guilty" or "no contest".

The Court therefore finds that the plea of guilty or no contest heretofore entered by the defendant is acceptable to the Court.

**IT IS, THEREFORE, ORDERED, ADJUDGED, AND DECREED** by the Court that the petition filed herein be, and the same is, in all respects, granted.

This the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
JUDGE