

LOCAL RULES
OF PRACTICE

FOR THE CIRCUIT COURT
OF THE
STATE OF TENNESSEE

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CIRCUIT COURT JUDGE
PART I

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25TH JUDICIAL DISTRICT
LOCAL RULES OF PRACTICE

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LOCAL RULES OF PRACTICE
FOR THE CIRCUIT COURT OF THE
25TH JUDICIAL DISTRICT OF TENNESSEE

Rule 1.

APPLICABILITY AND SUSPENSION

1.01 Applicability - Pursuant to the Rules of the Tennessee Supreme Court, the following rules are adopted and promulgated for the purpose of expediting the business of the Circuit Court of the 25th Judicial District of Tennessee. These rules shall be spread upon the minutes of each Court, copies shall be distributed by the Circuit Court Clerk to all attorneys practicing in the 25th Judicial District and a copy shall be forwarded to the Executive Secretary of the Tennessee Supreme Court.

1.02 Suspension of Rules - Whenever the Court determines that justice requires it, the Court may suspend any of these rules.

Rule 2.

COURT SESSIONS AND PROCEDURE

2.01 Court Sessions - Court will convene at 9:30 A. M. and will recess from 12:00 Noon till 1:00 P. M., but in some instances, the Court may shorten or lengthen the recess. Other recesses will be taken periodically during the Court date. Court will close at the conclusion of the day's business. Court will convene at earlier hours if the necessity arises to conclude the Court's business at a reasonable hour.

2.02 Courtroom Procedure - All persons in the Courtroom will stand while Court is being opened.

2.03 Smoking and Beverage Rule - There shall be no smoking allowed in the Courtroom at any time. No food or beverages will be allowed in the Courtroom at any time.

2.04 Space Within The Bar - Space within the bar is reserved for attorneys, litigants, Court Officers, Court Reporters, the Prosecutor in a criminal case, and the Clerk. No other person is allowed within this area without leave of Court. All paralegals, assistants, investigators and other staff members of respective parties are not allowed within this area.

2.05 Examining Witnesses - Counsel will stand when examining or cross-examining a witness.

Rule 3.

APPEARANCE AND CONDUCT OF COUNSEL

3.01 Counsel Of Record - All counsel who have entered an appearance will be the attorney or attorneys of record. An appearance shall be as follows:

1. The filing of a pleading.
2. The filing of a formal notice of appearance.
3. Appearance of counsel at an arraignment of a defendant in a criminal matter.

All attorneys who wish to represent a defendant in a criminal matter must appear in person at an arraignment. If counsel is unable to attend the regular scheduled States Day, then that counsel must make arrangements with the Court's secretary to appear at a later date with the Defendant for the purposes of arraignment.

3.02 Appointment Of Counsel - Whenever a defendant in a criminal case is determined by the Court to be indigent, an order shall be entered setting forth the indigency finding and identifying the appointed counsel. The District Public Defender's Office shall be appointed to represent all indigent defendants. In any case wherein there is more than one indigent defendant, one such person shall be represented by the Public Defender's Office, and the Court may appoint a local attorney, or attorneys, to represent such other indigent defendants. Such other indigent persons may be represented

by the Public Defender's Office, provided, however, the Court makes an affirmative finding prior to the appointment that no conflict of interest exists and it appears there is good cause to believe that no conflict of interest is likely to arise. In the event a conflict does arise, it shall be the responsibility of the Public Defender's Office to bring such conflict to the attention of the Court immediately.

3.03 Withdrawal Of Counsel - No attorney of record may withdraw except for good cause shown, and by leave of Court upon motion after notice to all parties. An attorney of record seeking withdrawal shall file written notice of his intention to withdraw at least five (5) days prior to the scheduling of any motion to withdraw, and shall give five (5) days notice to his client, at his last known address, of his intention to withdraw.

3.04 Withdrawal In A Criminal Case - If an attorney seeks to withdraw from a criminal case, he shall file written notice with the Court at least thirty (30) days prior to trial, and shall mail a copy of said motion to the Defendant. No attorney shall be allowed to withdraw without leave of Court, and shall continue to represent the Defendant until he is relieved by an order of the Court.

3.05 No Appearance Of Counsel Entered - If a party does not have an attorney of record, copies of all pleadings filed shall be furnished to the party. If a party does not have counsel of record, that fact shall be called to the attention of the Court before any action is taken on any pleadings filed which substantially affect the case. Once a default is entered, only orders of the Court need to be sent to parties without counsel.

3.06 Conduct Of Counsel During Trial Or Voir Dire - During the trial, counsel shall not exhibit familiarity with witnesses, jurors or opposing counsel, and the use of first names for adults shall be avoided. No juror shall ever be addressed individually by name.

3.07 Contacting The Court - Neither counsel nor a party to a pending action shall contact the Court unless there is an emergency, except by letter, orally, or telephonically, with all other counsel of record present. A copy of such letter shall be sent to all counsel and the Clerk.

Rule 4.

COURT FILES

4.01 File Removal And Return - No Court files are to be removed from the office of the Circuit Court Clerk unless signed or by the attorney of record or by the Court. All Court files must be returned to the Circuit Court prior to any hearing in the case.

Rule 5.

COURT CALENDARS

5.01 Court Calendar - The Clerk of the Court will provide practicing attorneys within District with a Court Calendar for each term.

Rule 6.

SETTING CASES FOR TRIAL AND CONTINUANCES

6.01 Criminal Cases - All criminal cases will be set for trial pursuant to a Pre-Trial Order which will be filed when the Defendant is arraigned. The Pre-Trial Order will contain a trial setting, as well as a date by which all pre-trial motions must be filed. The Pre-Trial Order will also contain a date by which the parties may negotiate a settlement of the matter. If the case is not settled on the date prescribed in the Pre-Trial Order, then the case must proceed to trial, dismissal or a plea of guilty or Nolle Contendere to the indictment without any recommendation from the State. The Court, for good cause shown, may extend the period in which to file motions or to reach a negotiated settlement. In such an event, it shall be the responsibility of the Defendant's attorney to prepare an Order reflecting the extension granted, and the dates which are re-set by the Court.

6.02 Hearings On Pre-Trial Motions - Hearings on Pre-Trial motions, petitions for suspension, or other relief, will be set upon request. If an available date can be agreed upon by all counsel, then counsel should confirm that date by letter, with copies to all counsel and the Clerk.

6.03 Hearings On Said Petitions to Suspend, Community Corrections, Work Release and Sentencing - 1. (a) All Petitions to Suspend the balance of sentence, Petitions to be sentenced to Community Corrections (Correction Management Corporation), Petitions for Work Release and Sentencing pursuant to a Plea of Guilty or Jury Verdict shall be heard in the County in which the case is pending. No Petitions shall be heard outside the County in which the case is pending except as provided in subsection b.

(b) Sentencing hearings on a Jury Verdict of Guilt or a Plea of Guilty without a recommended sentence may be heard outside the County in which the case is pending when the Department of Probation is unable to fully complete a Pre-Sentence Report within the term of Court. In such cases, it is the responsibility of counsel for the Defendant to provide the Court with the appropriate docket sheet and file.

2. In all Petitions to Suspend, Work Release, or for Community Corrections, it shall be the responsibility of counsel for the Defendant to notify the appropriate supervisory agency of the Petition. Said agency may contact the Court regarding the preparation of a report for said hearing, for instructions regarding the preparation of said report.

6.04 Civil Cases - Setting Trials And Motions

(a) Civil trials and motions are set by request. Attorneys seeking a setting can contact the Court or Clerk for available dates. When requesting a setting you must include the following information: the county in which the case is filed; the docket number; and if a trial setting, whether it is a jury or non-jury trial; whether all discovery has been completed; and the type of case (i.e. automobile accident, malpractice, etc).

After dates are obtained, the attorneys should then contact opposing counsel, and if an agreeable date can be arranged, this date should be confirmed by letter to the Court, with copies to all counsel and the Clerk. If a mutually agreeable date cannot be arranged, the Court will then set the case, and notify opposing counsel.

6.05 Continuances - Once a case is set for trial, the case may not be continued by consent, except by leave of Court. Motions for continuance must be filed within ten (10) days prior to the date set for trial, unless for good cause shown. Continuances will not be granted because of the absence of a witness unless the witness has been subpoenaed.

6.06 Settlement Of Cases Set for Trial - If a case is set for a jury trial, it must be settled by 4:30 P.M. on the date preceeding the trial. In that event, the Clerk and the Court must be notified so that the jury can be excused from attending Court. If a case is settled on the day of trial, and the jury appears, the costs of the jury shall be assessed against the party or parties responsible for the late settlement.

Rule 7.

7.01 Matters Heard Outside The County - In all matters scheduled for hearing outside the county in which the case is pending, it is the responsibility of the attorneys to present the Court with the file and the docket sheet and their responsibility to return same.

Rule 8.

8.01 Briefs - All attorneys in all cases or motions pending before the Court may file briefs with the Court. Copies of said briefs shall be mailed to all attorneys of record and shall be filed in sufficient time prior to said hearing to allow any opposing attorney the right to file an opposing brief.

Rule 9.

9.01 Judgment And Decrees - Unless the Court directs otherwise, attorneys for the prevailing party will prepare Orders and Decrees for entry by the Court. If an Order or Decree is submitted to the Court for the Court's signature at the Court's office, it shall be accompanied with a stamped, addressed envelope for the return mailing.

Rule 10.

10.01 Filings Of Pleadings And Orders - All pleadings, motions and briefs shall be filed with the Clerk. Orders and Judgments may be filed with the Clerk for the Court's signature. Orders and Judgments may be sent directly to the Court for signature, but only if all counsel of record have approved the Order and agree to it. If a proposed Order is not signed by all attorneys of record, the proposed Order may be sent to the Court with a certificate of service complying with the Rules of Civil and Criminal Procedure, and an explanation of why all counsel have not signed the proposed Order. The Court will hold said Order a reasonable time for opposing counsel to respond, then it will sign the proposed Order, or sign another proposed Order submitted in response thereto, or

enter its own Order.

Rule 11.

11.01 Pre-Trial Conferences - The Court will conduct Pre-Trial Conferences in cases set for trial when good cause exists. The purpose of such conferences will be to limit the issues if possible and resolve any matters pending which could cause a request for continuance. All attorneys of record will be notified by the Court when and where a Pre-Trial Conference will be held.

Rule 12.

12.01 Special Requests - When counsel submits special requests pursuant to Rule 51 of the Tennessee Rules of Civil Procedure or Rule 30 of the Tennessee Rules of Criminal Procedure, said requests shall be in writing, and copies furnished to opposing counsel. When the request is made by reference to a Tennessee Pattern Instruction number, the request shall contain the language requested, and the applicable pattern instruction number. If the request is based upon a case law or statute, the case citation or statute shall be identified and cited. All requests must be on separate 8½ by 11, or 8½ by 14 paper. Failure to cite the specific pattern instruction, case or statutory authority will result in a denial of the requested instruction. The Court will inform counsel of its action on the request prior to the argument before the jury.

Rule 13.

13.01 General Sessions Criminal and Juvenile Court Appeals - It shall be the responsibility of the various Clerks to notify the Court's secretary of any appeals from General Sessions Criminal cases or Juvenile Court cases, and whether or not a jury is demanded. The Court's secretary will then set the matter for trial and notify by letter all counsel or parties. Failure to appear on the date set for trial will result in the dismissal of the appeal.

Rule 14.

14.01 Dormant Cases - To expedite cases, the Court may take reasonable measures to purge the docket of old cases where the cases have been dormant without good cause shown for an extended period of time.

Rule 15.

15.01 Ordering Of Transcript - Within fifteen (15) days after filing Notice of Appeal, the Appellant in a criminal case shall order from the Court Reporter a transcript of such parts of the evidence or proceedings not already on file as he deems necessary. The Order shall be in writing and within the same period (15 days). A copy shall be filed with the Clerk of the Trial Court. If funding is to come from the State of Tennessee, the Order shall so recite. If this Notice is not given within the time prescribed and a transcript cannot be prepared within the time allowed, it shall be the responsibility of the Attorney for Appellant to obtain an Extension of Time from the Court of Criminal Appeals.

Rule 16.

16.01 Mental Evaluations Of The Defendant In A Criminal Case - All Motions filed by counsel for Defendant seeking a mental evaluation must be supported or accompanied by proof that there is a rational basis for the Court to order such an evaluation. This proof may be in the form of an affidavit or proof at a hearing in support of said motion. The proof should address itself to the issues and reasons for the evaluation. If the purpose of the Motion is to determine if the Defendant is competent to stand trial, there should be proof by affidavit or otherwise to indicate the Defendant's lack of competency to stand trial. If the issue is sanity at the time of the commission of the offense, the proof should first address the question of whether the Defendant suffers from a mental disease or defect justifying a further evaluation.

If the Court orders an evaluation of the Defendant, it shall

be the responsibility of the moving party to prepare the Order for that evaluation and to arrange an appointment for the Defendant at the appropriate mental health facility. Failure to do so within thirty (30) days after an evaluation is ordered shall be deemed as a waiver of this motion. In no event will the Court entertain a motion for an evaluation that is filed within thirty (30) days of the date set for trial unless good cause is shown why the Court should entertain said motion and the reasons for the delay of counsel in presenting this motion at such a late date.

Rule 17.

17.01 Experts In Criminal Cases - In all criminal cases in which the State or Defendant intends to rely upon an expert witness, said experts shall be subpoenaed to testify prior to the final call of the criminal docket. If the expert is not available to testify on the date set for trial in the Pre-Trial Order, counsel shall notify the Court at the final call of the criminal docket, so that another trial date can be set by the Court at said docket call. If counsel fails to notify the Court prior to the final call of the criminal docket of the expert's unavailability for the date set for trial, the Court will not allow a continuance on that ground.

Rule 18.

18.01 Amendments - Whenever the Court determines that justice requires it, the Court may amend or alter any of these rules. The Court may, also, as justice requires, add additional rules as it deems fit.

RULE 19.

19.01 Request For Subpoenas - It shall be the responsibility of all attorneys, when requesting the issuance of subpoenas for trial, to provide the Circuit Court Clerk with the current address and telephone number, if known, or all witnesses sought to be subpoenaed. The address should be the current 911 address, if applicable within the County. The Court will not consider as grounds for a continuance the fact that a witness has not been served with subpoena if the above information has not been provided the Clerk.

Rule 20.

UNIFORM CIVIL CASE COVER SHEET RULE

20.01 Uniform Rule - The Administrative Office of the Tennessee Supreme Court has promulgated uniform Civil Case Cover Sheets for use by the Courts hearing civil cases in the State. These documents will be used by the Administrative Office of the Courts for the purpose of collecting and compiling uniform case load statistics.

20.02 Original Filing - In all civil cases filed in the Circuit Court, the attorney shall complete the first page of the form designated as: TJIS/C11 (Civil Case Cover Sheet/Original Filings) as furnished by the Clerk of Court.

20.03 Reopened Cases - If the attorney is filing a petition to reopen or otherwise change a previously disposed case, the attorney shall complete the first page of the form designated as: TJIS/C13 (Civil Case Cover Sheet/Reopened Cases).

20.04 Submittal to Administrative Office of the Courts - The first page of these forms shall be forwarded to the Administrative Office of the Courts on a monthly basis by the Clerk of Court. When the case is disposed, the disposition information contained on the second page of the form shall be completed by the Court Clerk. The second page of the form shall then be forwarded to the Administrative Office of the Courts. The third copy of each form, which will contain both the filing and disposition information, shall be retained by the Clerk and will remain in the case file maintained in the Clerk's Office.

20.05 Cover Sheet Not Completed - If the cover sheet is not completed in full when forwarded to the Administrative Office of the Courts, it shall be returned to the Clerk of Court to be completed.

Rule 21.

MOTIONS FOR SEQUESTRATION OF JURORS

21.01 Pursuant to §40-18-116, Tennessee Code Annotated, in all criminal cases, except where the death penalty is sought, jurors shall not be sequestered unless upon written motion of counsel for defendant or the District Attorney General, or upon motion of the Court. Said written motion must be filed within the time limit as prescribed in the Court's Pre-Trial Order, but in no event later than twenty (20) days prior to trial.

21.02 If overnight sequestration of a jury is requested or anticipated, it shall be the responsibility of counsel requesting sequestration to inform the Court of this request at least five (5) days prior to trial, so that appropriate arrangements can be effected for overnight accommodations.

J. WEBER McCRAW
Judge, Circuit Part I

JOE H. WALKER
Judge, Circuit Part II

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