

Local Rules - Davidson County Courts of Record

Circuit, Chancery, Criminal and Probate Courts - Twentieth Judicial District of Tennessee

Effective January 1, 2008

Rule 9 Amended January 21, 2011

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

- **1.01 - Adoption of Rules**

These rules replace all previous local rules. These rules are effective June 1, 2005.

- **1.02 - Applicability**

- a. General Applicability.**

Unless otherwise indicated by a particular rule, Rules 1 through 8 apply to all types of cases in the Circuit, Chancery, Criminal and Probate courts in Davidson County. 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 Criminal Cases Only.**

Rules 9 through 17 pertain only to criminal cases unless expressly stated otherwise in these rules.

- c. Rules Applicable to Civil Cases Only.**

Rules 18 through 36 only pertain to civil cases unless expressly stated otherwise in these rules. Certain civil proceedings, such as domestic, probate, conservatorship, guardianship and administrative appeals have special procedures which control those cases. (See Local Rules 37, 38 and 39). If and to the extent these rules are inconsistent with such special procedures, the special procedures shall control.

- **1.03 - 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 where justice so requires.

- **1.04 - Definitions**

The following definitions apply to terms used in these rules:

- Clerk: The Circuit Court Clerk, the Clerk & Master of the Chancery Court, and the Criminal Court Clerk, as applicable, or their designees.
- Calendar Clerk: The deputy clerk assigned to a particular division or part.
- Case Coordinator: The trial court staff member who coordinates judicial settlement conferences.
- Tenn. R. Civ. P.: Tennessee Rules of Civil Procedure.
- Tenn. R. Crim. P.: Tennessee Rules of Criminal Procedure.

- **1.05 - 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 of All Cases**

The Judges of the various courts will adopt a method for the initial assignment of cases to a particular division or part and enter an order to that effect. The clerk may not assign a case to a particular division or part other than by using the method ordered unless instructed to do so by the court.

- **3.02 - All Matters in the Same Division or Part**

Once a case has been assigned, all matters in the case will be heard in that division or part, except as referred to in Local Rule 27 for Circuit Court jury and nonjury cases.

- **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 part or division to another.

- o **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 20th 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.

- o **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. If a motion to transfer is prompted by a pending related case, absent exceptional circumstances, the transfer must be assigned to the court with the oldest pending related or companion case.

- o **3.06 - Consolidation of Cases**

Cases must be assigned or transferred to the same division or part before they can be consolidated. An Order to consolidate cases must be obtained from the division or part to which the cases to be consolidated are assigned.

- **RULE 4. - COURT SESSIONS**

Regular sessions of court will open at 9:00 a.m. or at such other time as the court directs. Judges and attorneys will be prompt at all sessions.

- **RULE 5. - CONDUCT OF COUNSEL AND OTHER COURT PARTICIPANTS**

- o **5.01 - 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;
5. appointment by the Court.

- o **5.02 - Withdrawal of Counsel**

No attorney may be allowed to withdraw except for good cause and by leave of court upon motion after notice to all parties.

- o **5.03 - Appearance Entered; Copies of Pleadings**

If a party does not have counsel of record, copies of the pleadings filed will be furnished to the party. If a party does not have counsel of record, opposing counsel will call that fact to the attention of the court before any action is taken on any pleading filed which substantially affects the case.

- o **5.04 - Conduct of Counsel**

NBA PROFESSIONALISM COMMITTEE LAWYER'S CREED OF PROFESSIONALISM

Preamble

A lawyer owes to the administration of justice personal dignity, integrity and independence and a duty to make the system of justice work fairly and efficiently. In order to carry out that responsibility, a lawyer must comply with the letter and spirit of the disciplinary standards applicable to all lawyers, as well as conducting himself or herself in accordance with the following Creed of Professionalism when dealing with a client, adverse parties, their counsel, the Courts and the general public.

WITH RESPECT TO MY CLIENT:

1. I will advise my client of my adherence to this Creed;
2. I will be loyal and committed to my client's cause, but I will not permit that loyalty and commitment to interfere with my judgment or ability to provide my client with objective and independent advice;
3. I will endeavor to achieve my client's lawful objectives in all matters of representation as expeditiously and economically as possible;
4. In approaching cases, I will counsel my client with respect to mediation, arbitration, and other alternative methods of resolving disputes;
5. I will advise my client against pursuing litigation (or any other course of action) that is without merit and against insisting on tactics which are intended to delay improperly resolution of a matter or to harass or to drain the financial resources of an adverse party;
6. I will advise my client that civility and courtesy are expected and are consistent with zealous representation;
7. While I must abide by my client's decision concerning the objectives of the representation, I nevertheless will counsel my client that a willingness to initiate or engage in settlement discussions is

consistent with zealous and effective representation.

WITH RESPECT TO ADVERSE PARTIES AND THEIR COUNSEL:

1. I will conduct myself with candor, in a spirit of cooperation and scrupulously observe all agreements and mutual understandings;
2. I will be courteous and civil, both in oral and written communications;
3. I will not knowingly make statements of fact or law that are untrue;
4. I will agree to reasonable requests for extensions of time or for waiver of procedural formalities when the legitimate interests of my client will not be adversely affected;
5. I will endeavor to consult with adverse counsel before making scheduling decisions and before any required rescheduling, and I will cooperate with adverse counsel when scheduling changes are requested;
6. I will not use litigation or any other course of conduct to abuse or harass, such as seeking discovery which is clearly improper, abusive or excessive, or seeking sanctions or disqualification unless it is justified both by my client's lawful objective and by the interests of justice;
7. I will not use tactics which are intended to delay improperly resolution of a matter or to harass or to drain the financial resources of an adverse party;
8. In all matters of legal representation I will conduct myself with dignity, avoid making groundless objections and refrain from engaging in acts of rudeness or disrespect, including making disparaging personal remarks toward adverse parties, counsel and witnesses **and making demeaning comments regarding race, religion, national origin or gender.**
9. I will not provide drafts of time sensitive documents or serve pleading, motions or briefs on another party or counsel at such a time or in such a manner as will unfairly limit the other party's opportunity to respond;
10. In business transactions I will not unreasonably quarrel over irrelevant matters of form or style, but will concentrate on matters of substance and content;
11. I will attempt to prepare and revise documents which correctly reflect the agreement of the parties, and will not purposely include provisions which have not been agreed upon or purposely omit provisions which are necessary to reflect the agreement of the parties;
12. I will clearly identify, for other counsel or parties, all changes that I have made in documents submitted to me for review;
13. Where consistent with my client's interest, I will communicate with adverse counsel in an effort to avoid litigation and to resolve litigation that has actually commenced;
14. I will not take action adverse to the interests of a party known to be represented by counsel without notice to adversary counsel sufficient to permit a response;
15. I shall respond promptly to attempts by other lawyers to contact me whether by telephone or by correspondence.

WITH RESPECT TO THE COURTS AND OTHER TRIBUNALS:

1. I will be a vigorous and zealous advocate on behalf of my client, while recognizing, as an officer of the Court, that excessive zeal may be detrimental to my client's interests as well as to the proper functioning of our system of justice;
2. I will treat with respect the Court, members of the jury, witnesses, adverse parties and adverse counsel;
3. I will voluntarily withdraw claims or defenses when it becomes apparent that they do not have merit;
4. I will make every effort to agree with other counsel, as early as possible, on a voluntary exchange of information and on a plan for discovery;
5. I will attempt to resolve, by agreement, my objections to matters contained in my opponent's pleading and discovery requests;
6. When hearings or depositions have to be canceled, I will notify adverse counsel, and, if appropriate, the Court as early as possible;
7. Before setting dates for hearings or trials (or if that is not feasible, immediately thereafter) I will attempt to verify the availability of key participants and witnesses so that I can promptly notify the Court and adverse counsel of any likely problem in that regard;
8. I will be punctual in attending Court hearings and depositions;
9. I will be candid with the Court at all times;
10. **I will refrain from commentary that reflects or references race, religion, national origin or gender in a demeaning fashion.**

WITH RESPECT TO THE PUBLIC AND TO OUR SYSTEM OF JUSTICE:

1. The law is a learned profession and I am committed to its goals of devotion to public service and improvement of the administration of justice;
2. I will keep myself current in the areas in which I practice and, when necessary, will associate with, or refer my client to counsel knowledgeable in another field of practice;

3. I will be mindful that the law is a self-regulated profession and it is my duty to report unprivileged knowledge of any violation of D.R. 1-102;
4. I will be mindful of the need to protect the interests of the public and promote the image of the justice system in the eyes of the public when considering methods and contents of advertising;
5. I will contribute my talents, time, resources and civic influence on behalf of those persons who cannot afford adequate legal assistance and those organizations which serve the public good;
6. I will give of my talents and time to the organized bar to better the professional education of the bar, assist in efforts to improve the law, aid in efforts to assist colleagues and to promote public understanding of the justice system.

- o **5.05 - Setting Attorney Fees**

Whenever it is necessary for the court to determine fees of attorneys, 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 Tenn. Sup. Ct. R. 8, RPC 1.5, applicable case law, and such other information as may be requested by the court.

- o **5.06 - 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 Rules of Professional Conduct and the Code of Judicial Ethics.

- o **5.07 - Smoking**

There will be no smoking in court or during the taking of any deposition.

- o **5.08 - Noise Generating Devices**

All cell phones or other noise generating devices shall be turned off in court or during the taking of a deposition.

- **RULE 6. - FILING AND SERVICE OF PAPERS**

- o **6.01 - Filing With the Clerk**

All papers, including pleadings, motions, briefs, 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 the Judge, or
2. to provide a courtesy copy for the Judge's review

- o **6.02 - Certificate of Service**

All papers must contain a certificate of service showing the date of service and the name of the person or persons served. The clerk may refuse to file papers without a certificate.

- o **6.03 - 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.

- o **6.04 - Pseudonym**

No case may be filed under a pseudonym absent court order. The motion to proceed by pseudonym must be accompanied by an affidavit stating specific facts explaining why anonymity of the party is necessary and facts sufficient to overcome the presumption of public access to the identities of litigants.

- o **6.05 - Class Actions**

In any case sought to be maintained as a class action the complaint shall bear next to its caption the legend "Complaint-Class Action." [Comment: See Rule 26.14 for further requirements.] The clerk shall bring the lawsuit to the attention of the Judge or Chancellor assigned the case.

- o **6.06 - Information Available for Caselink Scanning and Redaction Option**

At present only the Circuit Court has Caselink public scanning available. This rule, however, shall apply to all Clerks should scanning and public viewing capabilities subsequently become available in the Chancery and Criminal Courts.

Option for Redaction of Information

In order to maintain the privacy of persons involved in litigation before Davidson County trial courts, counsel or pro se litigants may submit the following information on the Clerk's Statistical Sheet Form: social security number, name of minor child, date of birth, financial account number, and home address.

When the following information is included in any document filed with the court, counsel or pro se litigants may redact information in the following manner, unless otherwise ordered by the court or required by statute.

The Clerk will not review each document for compliance with this subsection.

- A. The following information may be redacted from any document filed:
1. Social security numbers: If an individual's social security number is included in a document, only the last four digits of that number are required.
 2. Names of minor children: If the involvement of a minor child is mentioned, only the initials of the child are required.
 3. Dates of birth: If an individual's date of birth is included in a document, only the year is required.
 4. Financial account numbers: If financial account numbers are relevant, only the last four digits of these numbers are required.
 5. Home addresses: If home addresses are included in a document, only the city and state are required.

Statistical Sheet Forms for Specific Personal Information

The Clerk shall make available to counsel and pro se litigants forms which shall be titled "Statistical Sheet Forms." When a statute, rule, or other law requires a party to file personal information such as a social security number, address, date of birth, etc., the information may be provided on a separate "Statistical Sheet." The Clerk will place the "Statistical Sheet" in the case file where it will be available for on-site public inspection; the Clerk may make and retain digital copies of the "Statistical Sheet" but shall not make the document available electronically to the general public.

• RULE 7. - PAPERS FILED IN TRIAL COURT

◦ 7.01 - Custody of the Files

The clerk will have custody of all papers and records of the court. Files may not be withdrawn by any person at any time absent court order. Depositions and records of administrative tribunals may be withdrawn with permission of the clerk. The clerk will furnish copies of the content of files at a reasonable cost. After final determination in a civil case, the parties have thirty days to withdraw exhibits and discovery materials. The clerk may destroy or dispose of exhibits not so withdrawn after appropriate notice to the parties.

◦ 7.02 - 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. [Comment: The standards relating to the appropriateness of sealing documents and/or court files is set forth in Ballard v. Herzke, 924 S.W. 2d 652 (Tenn. 1996)].

◦ 7.03 - Duties of Clerk: Habeas Corpus and Post Conviction

The Clerks of Court and Clerk and Master shall immediately notify the Judge or Chancellor to whom the case is assigned of the filing of any petition for habeas corpus or post-conviction relief and subsequent filings so as to insure compliance with T.C.A. § 29-21-108(a) and/or T.C.A. §§ 40-30-105 and 106.

• RULE 8. - RECORDING OF COURT PROCEEDINGS

a. Audio-visual Recordings of Court Proceedings.

The Sixth Circuit Court has been authorized by the Supreme Court to use audio-visual recordings as the official record of court proceedings pursuant to Supreme Court Rule 26. Unless otherwise ordered by the affected court, no other court will record or utilize such audio-visual recordings as the official record on appeal, nor shall any court be required to maintain an exhibit list and trial log with respect to an audio-visual recording. The Clerks of Court and Clerk & Master shall not file or certify such recordings, except from the Sixth Circuit Court, as part of the record on appeal unless directed to do so by the court from which the appeal is taken.

b. Access to Courtroom Video Servers

No one except Judges, Chancellors, and full time court staff shall have access by password or otherwise to the video servers in any of the trial courts absent written authorization from the affected Judge or Chancellor.

RULES APPLICABLE TO CRIMINAL CASES

• RULE 9. - EXTRAORDINARY INTERLOCUTORY RELIEF IN CRIMINAL CASES

◦ 9.01 - Unindicted and Unassigned Cases

All special requests for extraordinary interlocutory relief in unindicted and unassigned cases awaiting grand jury action shall be presented to the Judge where the case will eventually be assigned, according to the policy and procedure of the office of the Criminal Court Clerk.

◦ 9.02 - Ex Parte Communications

Pursuant to Tennessee Supreme Court Rule 10, Canon 3(B)(7)(e), as amended by order dated December 7, 2009, Judges of therapeutic courts, mental health courts and drug courts may engage in ex parte communications concerning the welfare and treatment of any individuals in those courts. However, should the

Judge of any of the courts enumerated above believe that such ex parte communication shall, in any way, influence any ruling by that Judge, the Judge shall immediately enter an order of recusal. Further, if any defendant should feel that their right to due process has been effected by said communications, they may petition the Judge for recusal. Upon good cause shown by the defendant, the Judge shall enter an order of recusal.

- **RULE 10. - DISCOVERY IN CRIMINAL CASES**

- **10.01 - Discovery by the Defendant**

All relevant issues relating to discovery by the defendant shall be addressed in the pre-trial scheduling order provided to the parties at the time of arraignment.

- **10.02 - Discovery by the State**

All relevant issues relating to discovery by the State shall be addressed in the pre-trial scheduling order provided to the parties at the time of arraignment.

- **10.03 - Notice of Intent To Use Audio/Video Recording Is Required**

When a party intends to offer an audio and/or visual recording as evidence in a jury trial, counsel must provide written notice to all adverse counsel at least ten (10) days before a trial. Adverse counsel shall be permitted to review the recording in the form to be offered at 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 11. - SUBPOENAS**

- **11.01 - Subpoenas Issued by Clerk**

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

- **11.02 - Time for Issuing Subpoenas**

Subpoenas for a local witness must be issued and dated by the clerk no later than five (5) days before the date of trial unless prior approval has been granted by the Judge for an extension. If the witness is to be served out of the county, the subpoena must be issued by the clerk no later than seven (7) days before the date on which the case is set for trial and promptly mailed or otherwise transmitted to the out of the county Sheriff or other authorized person to effect service of the subpoena. The foregoing notwithstanding, the clerk shall not refuse to issue a subpoena even if requested after the dates set forth above.

- **11.03 - Address of Witness**

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

- **11.04 - 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 Criminal Court Clerk shall request the presence of the inmate from the Department of Correction at least six (6) working days prior to the court date.
- b. Counsel needing prison inmates as witnesses in a criminal case must obtain a court order for the witnesses' appearance and this must be obtained 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 14.02) unless the case is for actual settlement and/or there is a need to personally talk to the inmate.

- **RULE 12. - MOTIONS IN CRIMINAL CASES**

- **12.01 - Time for Filing Pre-Trial Motions**

All pre-trial motions shall be made pursuant to Tenn. R. Crim. P. as well as the pre-trial scheduling order.

- **12.02 - 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 the motion.

- **12.03 - Motions in Limine**

- a. Motions in limine relating to an audio and/or visual recording shall be governed by Local Rule 10.03.
- b. Motions in limine seeking to resolve a trial evidentiary matter shall be set at the discretion of the court.
- c. Counsel are encouraged to raise appropriate evidentiary objections by written motion at least five (5) days before trial.

- **12.04 - 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 in support of the position of the motion or response.

- **RULE 13. - SETTING CASES FOR TRIAL AND CONTINUANCES: CRIMINAL CASES**

- **13.01 - Method of Setting**

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

- **13.02 - 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 a continuance unless the witness has been subpoenaed in accordance with the requirements of these rules and Rule 17, Tenn. R. Crim. P.
- c. If a case is continued, a new trial date will be assigned at the time of the continuance.

- **RULE 14. - NEGOTIATIONS AND SETTLEMENTS IN CRIMINAL CASES**

- **14.01 - Pre-Trial Order**

At arraignment the court shall notify the parties of the deadline of filing pre-trial motions, the date(s) for the hearing on pre-trial motions and the settlement date(s). The above date(s) will be provided to the parties in the form of a pre-trial order, copies of which shall be furnished to the parties. The clerk will retain the original order in its file but need not copy it on the minutes.

- **14.02 - Settlement Date; Settlement Deadline**

At arraignment the court will assign a court date for settlement of the case, which will be the deadline for acceptance of a negotiated disposition. At the final settlement date, if the case has not been disposed of 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 before the date(s) of the trial. On the day of the trial, the case may be resolved only by trial, the State's motion for dismissal with prejudice, or the defendant's plea of guilty to the offense(s) charged in the indictment. 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.

- **14.03 - 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. This rule shall apply to pleas in cases where the defendant is indicted for the following offenses:

- a. murder or the attempt, facilitation or solicitation to commit murder;
- b. voluntary manslaughter, reckless homicide, criminally negligent homicide or the attempt, facilitation or solicitation to commit these crimes;
- c. vehicular homicide;
- d. aggravated assault;
- e. aggravated kidnapping, kidnapping or the attempt, facilitation or solicitation to commit these crimes;
- f. all felonies described as Sexual Offenses under T.C.A. § 39-13-501, et seq. or the attempt, facilitation or solicitation to commit these crimes;
- g. aggravated arson and arson or the attempt, facilitation or solicitation to commit these crimes;
- h. robbery, aggravated robbery and theft of property from the person;
- i. especially aggravated burglary or aggravated burglary or the attempt, facilitation or solicitation to commit these crimes;
- j. all felonies described as Offenses Against the Family under T.C.A. § 39-15-101, et. seq., or the attempt, facilitation or solicitation to commit these crimes;
- k. vandalism;
- l. stalking; and
- m. all other crimes involving individual victims where the Judge deems it appropriate that prior communication is made to the victim.

- **RULE 15. - ORDERS AND JUDGMENTS IN CRIMINAL CASES**

- **15.01 - Preparation and Submission of Orders and Judgments**

Unless the court directs counsel to prepare an order for entry by the court, all orders and judgments will be prepared by the clerk or by the court when deemed appropriate.

- **15.02 - Preparation and Submission of Orders and Judgments by Counsel**

When directed by the court, counsel will prepare orders for entry by the court. All orders must be filed with the clerk and served on opposing counsel within seven (7) days following the day on which the ruling is made by the court.

- **15.03 - Disagreements over Contents of Orders or Judgments**

Unless otherwise directed by the court, an order containing only the signature of the attorney who prepared the order will not be entered immediately, but will be held by the clerk for three days. After opposing counsel receives a copy of the proposed order, he or she shall immediately notify the minute clerk and the court if there is any objection to the order. In that event, a conference shall be scheduled at a time convenient to the parties and the Judge.

- **15.04 - Orders for Mental Health Evaluations**

In all mental health evaluations under the provisions of T.C.A. § 33-7-301, the order shall be accompanied by a separate form to be provided by the clerk. This form, to be filled out by counsel, shall at least include the reason for the request, observed behavior, nature of changes, social history (including a history of prior treatment), a prior criminal record, copy of arrest warrant or indictment and, if available, the arrest report. The clerk shall provide the completed form to the individual or agency doing the evaluation.

- **RULE 16. - BONDING COMPANIES**

- **16.01 - Qualifications and Operations**

All matters involving the qualifications and operation of bond persons and bonding companies shall be addressed to the Judges of the Criminal Court, who shall hear and dispose of such petitions and applications as they shall determine.

- **16.02 - Location of Supplemental Local Rules of Practice**

The local rules of practice related to bail bond companies and bond persons as adopted by the Criminal Court Judges shall be filed with the Criminal Court Clerk and be available for inspection and/or copying by all interested persons and are available on the internet at www.nashville.gov/trcourts/bond_rules.html

- **RULE 17. - COPIES FOR JURORS (RESERVED)**

CIRCUIT AND CHANCERY CIVIL

- **RULE 18. - TIME STANDARDS FOR DISPOSITION OF CASES**

- **18.01 - Time Standards**

All civil cases must be concluded or an order setting the case for trial obtained within twelve (12) months from date of filing unless the court has directed a shorter or longer period.

- **18.02 - 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.

- **18.03 - 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 19. - EXTRAORDINARY RELIEF IN CIVIL CASES**

- **19.01 - Assignment of Cases**

Pleadings seeking a writ of certiorari, restraining order or other extraordinary relief shall be first filed with the clerk and assigned to a court. The pleadings & exhibits shall then be presented to the Judge or Chancellor of the assigned court or to another Judge or Chancellor if the assigned Judge or Chancellor is unavailable.

- **19.02 - Restraining Orders**

- a. No court will grant a restraining order unless notice is given to the opposing party or good cause is shown for dispensing of notice and supported by affidavit.
- b. Parties seeking a restraining order will submit a proposed restraining order along with the request for relief to the court. The restraining order shall provide for the setting of a hearing for a temporary injunction and shall provide a space for the court to set a date, time and location for such a hearing.
- c. Application for temporary restraining order will be submitted on the filed pleadings and supporting documents.
- d. In domestic relations cases the provisions of this rule shall be followed only insofar as deemed appropriate by the Judge to whom application is made.

- **19.03 - Setting Hearing for Interlocutory Relief**

Hearings on applications for temporary injunctions and other forms of extraordinary interlocutory relief shall be set as provided in Local Rule 19.02 (b), or in cases where no restraining order is issued, (1) upon motion or (2) by an order setting the date, time and location for the hearing.

- **19.04 - Hearings for Temporary Injunctions**

The court shall conduct all hearings for temporary injunctions and other forms of extraordinary interlocutory relief upon affidavits or depositions unless a party requests and obtains permission of the court for the introduction of oral testimony before the time of the hearing.

- **19.05 - Hearings for Injunctive Relief in Domestic Relations Cases**

All hearings for temporary injunctions or other forms of interlocutory relief in domestic relations cases shall be governed by Local Rule 37.04.

- **RULE 20. - GENERAL SESSIONS APPEALS IN CIRCUIT COURT**

- a. It shall be the duty of the parties and/or their attorneys to determine when a case appealed from the General Sessions Court is filed with the Circuit Court Clerk.
- b. Once the warrant being appealed is received by and filed with the Circuit Court Clerk, the appellant has the duty to set the appeal for a hearing before a trial judge. The appellant has forty five (45) days to secure a trial date from the court. This time is counted from the date the Circuit Court Clerk files the appealed warrant. If the appellant fails to secure this order within the 45 day time period, an order will be entered making the judgment of the General Sessions Court the judgment of the Circuit Court with costs taxed to the appellant. At the time the appeal is perfected in the Clerk's office, the clerk shall give the appellant or the appellant's attorney written notice of this rule.
- c. The signature of an attorney or party to an appeal from General Sessions Court shall constitute a certificate under Tenn. R. Civ. P. 11.

- **RULE 21. - REFERENCES TO MASTER IN CIVIL CASES**

- **21.01 - Order of Reference**

All references to a Master shall be by order and shall be specific about what is referred and what is reserved for further proceedings before the court. Partition references must address ownership, encumbrances, type of partition, method of sale, and value. Parties should seek specific language through motion where contested, or by agreement after consultation with the proposed master about practices in the particular court.

- **21.02 - Statements of Claim and Responses**

The parties shall file itemized statements of claim and responses to statements of claim as directed by the master.

- **21.03 - Recording of the Proceedings**

The parties are responsible for providing a court reporter in order to preserve rights to object before the trial Judge.

- **21.04 - Objections**

Any objection to the master's report which is based upon a factual question must be supported by a transcript of the hearing before the master. Objections shall be heard on the motion docket.

- **RULE 22. - DISCOVERY AND MOTIONS RELATED TO DISCOVERY**

- **22.01 - Filing Required Only for Use by Court**

Interrogatories, requests for production or any other discovery material will not be filed with the clerk unless and until such material is to be considered by the court for any purpose.

- **22.02 - Extension of Time for Responses to Discovery**

As provided in Tenn. R. Civ. P. 29, stipulations extending the time for responding to interrogatories, requests for production and requests for admissions may be made without approval of the court provided such stipulated extension is not in conflict with an order of the Court.

- **22.03 - Discovery Completion Deadline**

Upon motion of a party or upon its own motion, the court may order that discovery be completed by a certain date.

- **22.04 - Interrogatories to Parties**

- a. No party will serve more than thirty (30) single question interrogatories, including sub-parts, on another party without leave of court. Any motion seeking permission to serve more than thirty (30) interrogatories will set out the additional interrogatories the party wishes to serve. The motion will be accompanied by a memorandum giving reasons establishing good cause for the service of additional

interrogatories. If a party is served with more than thirty (30) interrogatories without an order of the court, he or she will respond only to the first thirty (30) in the manner provided by the Tenn. R. Civ. P.

- b. After each separate question and sub-question, a blank space will be provided reasonably calculated to enable the answering party to have his or her answer typed in. The answering party will verify the answers immediately following the answer to the last interrogatory.
- c. The party to whom the interrogatories are directed will answer or object to each interrogatory within the space so provided or use additional pages if necessary, will serve the copy containing the original verification upon the party propounding the interrogatories, and will serve copies thereof on opposing counsel.

- o **22.05 - Requests for Admissions**

- a. Requests for admissions made pursuant to Tenn. R. Civ. P. 36 will be arranged so that after each separate request, a blank space will be provided reasonably calculated to enable the responding party to have the response typed in.
- b. If a response is necessary, the party to whom the requests are directed will respond in the space provided, serve a copy containing the original signature upon the requesting party, and serve copies thereof on opposing counsel.

- o **22.06 - Disclosure of Audio/Visual Recording**

This is addressed by Local Rule 29.02.

- o **22.07 - Objections to Discovery**

When objecting to interrogatories, requests for admissions, requests for production, the interrogatory or request will be repeated immediately preceding the objection.

- o **22.08 - Efforts to Resolve Discovery Disputes**

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. If the certification asserts that opposing counsel has refused or delayed discussion of the discovery issues raised in the motion, the court will take appropriate action when resolving the motion so as to prevent further delay.

- o **22.09 - Motions to Compel Discovery**

Motions to compel discovery shall:

- a. 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;
- b. state the reason supporting the motion;
- c. where a party has submitted no response to the discovery or has objected to the entire set of interrogatories or requests, neither of the requirements in Local Rule 22.09 (a) shall apply;
- d. be accompanied by a discovery effort certification (See Rule 22.08).

- o **22.10 - Motions for Protective Orders and to Quash Subpoenas**

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:

- a. 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;
- b. state with particularity the grounds for the motion;
- c. be accompanied by an affidavit or other evidence showing the need for the order.

- o **22.11 - Motion to Compel; Agreement to Furnish Documents at Deposition**

Agreements to furnish exhibits made during the taking of depositions may be enforced by motion made pursuant to Tenn. R. Civil. P. 37 and/or Rule 22.09 of these rules.

- o **22.12 - Reference of Discovery Disputes to a Master**

The court may refer to discovery disputes to a master.

- o **22.13 - Service**

Whenever a request for discovery is made, the party seeking discovery shall serve each party with a copy of the request. Such service shall be made regardless of whether the discovery sought is directed to only one of multiple parties. Likewise, each response to a request for discovery shall be served on each party in the case.

- **RULE 23. - NEGOTIATIONS AND SETTLEMENTS IN CIVIL CASES**

- o **23.01 - Judicial Settlement Conference**

(a) Settlement Judge or Chancellor. Settlement conferences will be conducted by a Judge or Chancellor other than the Judge or Chancellor to whom the case is assigned for trial, except when requested and agreed upon

by the parties or when the Judge or Chancellor to whom the case is assigned deems it appropriate to preside over the settlement conference because of the exigencies of the case.

(b) Scheduling Settlement Conferences. A Judge or Chancellor who is assigned to the case may schedule a settlement conference as part of the case management order or as a result of discussions during a case management conference, with or without the consent of any or all parties. A party may file a motion requesting a settlement conference if a settlement conference is not otherwise provided in the case management order or attorneys agreeing to a conference may contact the case coordinator to schedule a judicial settlement conference.

(c) Party Attendance. The assigned Judge or Chancellor shall require that the parties or their representatives with full settlement authority attend the settlement conference except upon good cause shown.

(d) Settlement Statements.

(1) At least five (5) days before the settlement conference, each party shall deliver under seal, directly to the courtroom deputy or calendar clerk for the settlement Judge or Chancellor, an ex parte settlement conference statement, which shall specify the party's settlement position.

(2) The settlement statement shall be furnished only to the Court and not to any other party.

(3) The settlement statement shall not be filed with the Clerk of Court.

(4) The settlement statement shall include a summary of the party's view of the law as to theory of liability or defense, factors compelling or blocking settlement, status of discovery, and identification of any essential or concerned third parties. In addition, each party shall state whether any settlement offer has been made and the terms thereof shall also contain a candid assessment of the strengths and weaknesses of both sides of the case, an appraisal of the issue of liability, the status of the parties' settlement discussions, if any, and an assessment of the economic cost of proceeding to trial.

(5) Plaintiff's settlement statement shall contain an assessment from plaintiff's viewpoint of damages and the strengths and weaknesses of plaintiff's position.

(6) Defendant's settlement statement shall contain an assessment of the plaintiff's damages, defendant's exposure to those damages and the respective strengths and weaknesses of defendant's position.

(7) The settlement statement shall contain a statement of the settlement authority extended by the client, based on the attorney's written evaluation and opinion, which all shall be furnished to the client in sufficient time to obtain express settlement instructions.

(e) Confidentiality. No part of any of the contents of the discussions or any statements made or information provided to the Court and/or to any party or counsel during a settlement conference shall be used by any party or repeated to or otherwise provided to any other person by any party for use in the litigation or any other litigation for any purpose whatsoever or for any other purpose not in connection with the case or any other litigation. This protection includes, but is not limited to, the protection provided by T.R.E. 408 and 409. Likewise, all disclosures made to the Settlement Judge or Chancellor shall be kept in strict confidence.

o **23.02 - Awards of Expenses**

If any case is settled within forty-eight hours of when it is to begin, the court may award compensation to witnesses for lost income and/or travel expenses and tax the same as costs.

o **23.03 - Court Approval of Settlements**

In the event a minor or incompetent person is not represented by counsel, the court may require that a guardian ad litem be appointed for the person if the court is not satisfied with the proposed settlement, and in that event, the fee of said guardian ad litem will be taxed as part of the costs.

o **23.04 - Presentment of Settlements**

Proposed workers' compensation, legitimation and minor settlements may be presented for approval before the opening of court.

o **23.05 - Notice Immediately Upon Settlement**

If a case is set for trial and the parties later reach a settlement, the parties shall give immediate notice of the settlement to the Calendar Clerk in Chancery and Assignment Clerk in Circuit, and shall promptly file an agreed order.

• **RULE 24. - AGREED SUMMARY TRIAL**

- o **24.01 - Agreement**

In suits filed in Chancery Court, Circuit Court, or Probate Court, the court may order a special expedited proceeding if the following conditions are met:

- a. An agreed order is submitted which provides for an expedited proceeding pursuant to this rule. The agreed order shall serve as a certification that a written agreement has been entered into and signed by the parties and their counsel acknowledging that they understand that the case is being handled under this expedited format. [See appendix for sample agreement and order].
- b. The signed written agreement must state that the parties have agreed to an upper and a lower limit to the monetary award that the plaintiff will receive as damages if liability is stipulated or eventually determined by the Court. These amounts, however, shall not be disclosed to the Court except as provided at 24.02(h).
- c. The signed written agreement evidences the parties' intention that the decision will be final (unless the right to appeal is specifically reserved).
- d. The signed written agreement shall provide how court costs shall be allocated.

- o **24.02 - Procedure**

In the interest of saving the time and expense of a complete court proceeding, the special expedited proceeding shall be conducted as follows:

- a. The proceeding will be held before the Judge who has agreed to hear the case (or by special Judge appointed by the regular Judge and approved by counsel) without a jury. Expedited proceedings shall be set for hearing by agreement of counsel after consultation with the Calendar Clerk for Chancery and Probate Court or the Assignment Clerk for Circuit Court.
- b. The parties will voluntarily furnish whatever items are requested that would be subject to discovery under the law to each other.
- c. The parties will appear with their attorneys at the date and time set by order of the Court.
- d. The plaintiff's attorney will present his or her proof on the issues to be tried, including liability, and argue his or her rights to recovery, including amount of damages.
- e. The defendant's attorney will present his or her proof and arguments in defense and then the plaintiff's attorney will be allowed rebuttal.
- f. Proof as used in (d) and (e) above may include stipulations, exhibits, live testimony or whatever variations the parties may agree upon.
- g. The Judge shall deliberate and render an initial decision, which shall also include the amount of damages, if applicable.
- h. If the initial decision includes an award of damages, the parties shall disclose to the Court the agreed upon limits of recovery as provided in 24.01(b).
 - i. The initial decision shall become the final decision if the amount of damages awarded in 24.02(g) is between the upper and lower limits previously agreed upon.
 - j. If the initial decision rendered in 24.02(h) exceeds the previously agreed upon upper limit, then the initial decision shall be modified so that the final decision includes damages equal to the agreed upon upper limit.
 - k. If the initial decision rendered in 24.02(g) is less than the previously agreed upon lower limit, then the initial decision shall be modified so that the final decision includes damages equal to the agreed upon lower limit.
 - l. An enforceable judgment will be entered based upon the final decision.
- m. The final order in the case shall reference and attach the Rule 24 Agreement as signed by the parties and their counsel.

- **RULE 25. - JUDICIAL REVIEW OF ADMINISTRATIVE DECISIONS-SPECIAL PROCEDURES**

- o **25.01 - Briefs Required**

Briefs must be filed in all cases heard by the court upon the record from an administrative tribunal or agency. If a petitioner-appellant fails to file his or her brief within the time provided by this rule or within the time ordered by the court, the action may be dismissed and the agency decision affirmed. If the defendant-appellee has not filed his or her brief within the time provided by this rule or within the time ordered by the court, the court may decide the case solely upon the record and the petitioner-appellant's brief.

- o **25.02 - Filing and Service of Briefs**

The petitioner-appellant must file and serve a brief within thirty (30) days after the record is filed. The defendant-appellee must file and serve a brief within thirty (30) days after service of the brief of the petitioner-appellant. Reply briefs may be filed at the option of a party, and, if filed, must be filed and served within fourteen (14) days after service of the preceding brief. Upon motion of a party or upon its own motion, the court may enlarge or shorten the time for filing briefs.

- o **25.03 - Hearings-Oral Argument**

Hearings on oral argument shall be scheduled as provided in Local Rule 27 after the record has been filed.

- o **25.04 - Waiver of Oral Argument**

Oral arguments may be waived by agreement of counsel. If oral argument is waived, counsel shall notify in

writing the Calendar Clerk or Assignment Clerk after all briefs are filed.

o **25.05 - Expedited Procedure Involving Prior Restraint**

If a petitioner-appellant alleges that the decision of an administrative tribunal or agency unlawfully results in the prior restraint of his or her rights that are guaranteed by the First Amendment to the U.S. Constitution and or Article One, Section 19 of the Constitution of Tennessee, and either party requests an expedited hearing, the court will establish an expedited briefing schedule and expedited hearing date to review the merits of the appeal.

• **RULE 26. - MOTIONS IN CIVIL CASES**

o **26.01 - Time to Schedule and Hear Dispositive Motions**

Dispositive motions must be scheduled to be heard at least thirty (30) days before a trial date unless the court otherwise orders.

o **26.02 - Time for Hearings**

- a. Motions will be heard at 9:00 a.m. on Fridays with the exception of Sixth Circuit, which hears motions at 9:30 a.m., and the Fourth Circuit, which hears motions at 9:00 a.m.
- b. Appropriate notice shall be published when a court will not have a motion docket on a Friday.
- c. Judges will endeavor to arrange their motion dockets to minimize delay for lawyers. If a lawyer is aware that an argument will be prolonged, the lawyer should attempt to set the motion specially.

o **26.03 - Fourteen Day Minimum Notice of Hearing on Motions;
Summary Judgment Motions Filed Thirty-Seven Days Before Hearing**

- a. The notice of hearing as contained in Local Rule 26.05(b) shall be filed at least fourteen (14) days before the scheduled hearing date.
- b. A motion for summary judgment cannot be heard until at least thirty-seven (37) days after it is filed unless the parties otherwise agree.
- c. In Circuit Court, the moving party needs file no further notice if the motion hearing date is continued by agreement of all parties or by court order.
- d. In Chancery Court, if a motion is reset by agreement, a written notice of the new motion hearing date must be provided to the Clerk by faxed letter or other means. This notice must be provided by the close of business on the Monday before the Friday on which the motion is to be heard.

o **26.04 - Motions, Responses, Replies and Briefs**

- a. Motions shall clearly state with particularity the grounds therefore, and shall set forth the relief or order sought as required by Tenn. R. Civ. P. 7.02.
- b. Every motion or response which may require the resolution of an issue of law, and every motion or response in which legal authority is relied upon, shall be accompanied by a memorandum of law and facts in support thereof. Any motion, response, brief or memorandum of law that makes reference to a transcript or deposition shall make reference to the specific page(s) of the transcript involved. Whenever a memorandum cites an unreported Tennessee decision or a decision from a court of another state or federal jurisdiction, counsel shall attach a complete copy of the opinion to the memorandum; counsel shall also furnish a copy of any such opinion to opposing counsel.
- c. When requesting leave to amend a pleading, the moving party must attach a copy of the proposed amended pleading to the motion so that it becomes part of the record. [Comment: Unless the record before the appellate court shows the substance of the proposed amendment, it cannot determine whether the court acted properly on the motion. Taylor v. Nashville Banner Publ'g Co., 573 S.W.2d 476 (Tenn. Ct. App. 1978).]
- d. If the motion is opposed, a written response to the motion must be filed and personally served on all parties. The response shall state with particularity the grounds for opposition to the motion, supported by legal authority, if applicable. If no response is filed, the motion shall be granted with the exception of certain proceedings in Probate. (See Rule 39).
- e. Responses to motions, including counter-affidavits, depositions, briefs, or any other matters presented in opposition to motions, must be filed with the clerk's office by the close of business on Monday before the Friday on which the motion is to be heard. The response must also be personally served upon all parties no later than 5:00 p.m. on the Monday before the Friday on which the motion is to be heard. If Monday falls on a holiday and the offices of the court clerks are closed, responses to motions must be filed with the clerk's office by the close of business on the Tuesday before the Friday on which the motion is to be heard. In case of a Monday holiday, service of the response on all parties must occur no later than 5:00 p.m. Tuesday.
- f. Replies to responses, if any, must be filed with the clerk's office by the close of business on the Wednesday before the Friday on which the motion is to be heard. The reply must also be personally served on all other parties no later than 5:00 p.m. on the Wednesday before the Friday on which the motion is to be heard.
- g. IF NO RESPONSE IS TIMELY FILED AND PERSONALLY SERVED, THE MOTION SHALL BE GRANTED AND COUNSEL OR PRO SE LITIGANT NEED NOT APPEAR IN COURT AT THE TIME AND DATE SCHEDULED FOR

THE HEARING.

Counsel or pro se litigant shall then submit the proposed order consistent with Local Rule 33. The order shall recite that no response was timely filed or personally served. See Rule 39 for exceptions to this Rule in certain Probate matters.

- **26.05 - Docketing Motions for Hearing and Disposition**
 - a. Docketing Motions for Hearing and Disposition- Docketing of a motion will be complete upon filing the motion with the Chancery, Probate and Circuit Court Clerks, provided it contains notice of a hearing date. If no hearing date is requested upon the filing of the motion, either counsel may file a notice of hearing for a previously filed motion and serve opposing counsel and/or party.
 - b. Notice of Hearing and Disposition- Any party filing a motion in Chancery, Probate or in Circuit Court shall serve written notice of the date and the time of the hearing upon all other parties. The notice shall advise all other parties that failure to file and serve a timely written response to the motion will result in the motion being granted without further hearing.
 - c. Domestic relations motions are exempted from this rule and are governed by §37.05.
- **26.06 - Personal Service Defined**

For purposes of this Rule, personal service means delivery, mailing or transmission of a facsimile (i.e., "fax" or "telecopier") such that the document served is physically received by the specified date and time. In the event personal service is affected by facsimile, an original copy of the document shall follow by delivery or mail.
- **26.07 - Special Setting of Motions**

Where special circumstances warrant, motions may be specially set with the Calendar Clerk of each court at times other than on the regular motion docket. A motion to set an expedited hearing shall be accompanied by an attached proposed order.
- **26.08 - Failure to Appear at a Motion Hearing; Late Appearance**

If any party 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 or adjudicate the motion. Counsel who will be late for a motion hearing shall notify the Calendar Clerk of the assigned court in advance of the hearing or have an announcement to that effect made at the call of the motion docket. If the movant fails to appear, and the court strikes the motion, the court may tax, as costs, reasonable fees and expenses in favor of the opposing party who did appear at the scheduled hearing.
- **26.09 - Striking or Postponement of Motions**

After a motion has been docketed, the movant may strike or postpone a motion upon timely notice to all parties. If a motion is to be stricken or postponed by agreement, counsel shall timely notify the Calendar Clerk of the assigned court. If any party strikes or postpones a motion without giving notice, the court may tax, as costs, reasonable fees and expenses in favor of any party who appeared at the scheduled hearing.
- **26.10 - Agreed Orders**

If an agreed order is to be submitted disposing of a motion, counsel shall advise the Calendar Clerk of the assigned court prior to the hearing or may so announce at the hearing.
- **26.11 - The Hearing**
 - a. Oral Argument. Motions with responses shall be orally argued unless waived by agreement, excepted by order of the court, or where a prisoner proceeds pro se.
 - b. No Witnesses. The motion hearing shall be upon the pleadings, affidavits or depositions unless a party requests and obtains permission of the court for the introduction of oral testimony before the time of the hearing.
- **26.12 - Motions in Limine**

Motions in limine are governed by Local Rule 30.
- **26.13 - Motions to Compel Discovery**

Special requirements related to motions involving discovery disputes are addressed by Local Rule 22.08-22.12.
- **26.14 - Class Action Determination**

Within sixty (60) days after the filing of a complaint in a class action, unless this period is extended on motion for good cause appearing, the plaintiff shall move for a determination under Rule 23.03(1) Tenn. R. Civ. P. whether the case is to be maintained as a class action. In ruling upon such a motion, the Court may allow the action to be so maintained, may disallow and strike the class action allegations, or may order postponement of the determination pending discovery or such other preliminary procedures as appear to be appropriate and necessary under the circumstances. Whenever possible, where it is held that the determination shall be postponed, a date shall be fixed by the Court for the renewal of the motion.
- **26.15 Default Judgement Motion with Certificate**

All motions for default judgment seeking a judgment for liquidated damages shall specifically state the amount

sought and be accompanied by a certificate which shall substantially comply with the default judgment certificate in the appendix. A request for non-liquidated damages will require a damages hearing.

- **RULE 27. - ADMINISTRATION AND SCHEDULING OF CIRCUIT AND CHANCERY CASES**

- **27.01 - Administration of Cases**

Administration of cases in the Chancery Courts and Circuit Court VII (exercising its jurisdiction in Probate matters) will be set by the individual Chancery Court and in general pursuant to 27.02, 27.03 and 27.04 or pursuant to Rule 39 for all Probate matters. Administration of Circuit Courts handling civil jury or non-jury (non-family law cases) will be handled pursuant to Rule 27.02, 3 [27.03], 4 [27.04] and 5 [27.05]. Family law cases will be set by the individual judge.

- **27.02 - Method of Setting Cases**

Cases shall be set for trial in accordance with the following:

A. CHANCERY:

1. By agreement of counsel after consultation with the Calendar Clerk for each Part of Chancery Court.
2. At a Scheduling Conference with the originating Chancery Court.
3. By motion to the individual Chancellor in Chancery cases.
4. At the discretion of a Chancellor with notice to counsel in Chancery cases.

B. PROBATE:

1. Pursuant to Rule 39.11 for Probate matters.

C. CIRCUIT:

1. At a Scheduling Conference with the originating Circuit Court.
2. By agreement of the parties in Circuit cases for a date within the "open docket".
3. By motion to the Assignment Judge on his/her regularly scheduled motion docket for all Circuit cases where agreement is not possible, date has not been set at a Scheduling Conference, or dates sought are beyond the "open docket".
4. At the discretion of the Assignment Judge, with notice to counsel, for expedited cases.

- **27.03 - Certifying Cases Ready When Set**

When a case is set by agreement or when a case is set by motion without an objection to having it set, all counsel are certifying they are available for trial and that the case will be in all respects ready for trial on the trial date subject to the provisions of T.R.C.P. 16.

- **27.04 - Workers' Compensation Benefit Review Conference**

All worker's compensation cases shall be referred for a benefit review conference. See Tenn. Code Ann. §§50-6-237 and 50-6-239(a). No workers' compensation case shall be set for trial unless the parties certify to the Court that the benefit review conference process has been completed or is not necessary pursuant to Tenn. Code Ann. §50-6-239(c). This rule does not apply to accidents or injuries occurring after January 1, 2005 as Tenn. Code Ann. §50-6-203(a) will apply.

- **27.05 - Continuances in Chancery and Circuit Cases**

- a. Cases may be continued only by leave of the originating court by motion or upon an emergency request or by the judge to whom a case is assigned on the date of trial. They may not be continued by agreement of counsel without consultation of the court. Cases 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 cause for a continuance unless the subpoena has been issued and dated ten days prior to a trial for a local witness and 14 days for an out of county witness, pursuant to Local Rule 28.02.
- c. When a case is set by agreement or set upon motion without an objection to having it set, failure to have completed discovery, inability to take a deposition or failure to have completed any other trial preparation will not be a cause for a continuance.
- d. If a case is continued, it must be continued to a date certain. The reason for the continuance must be contained in the order.
- e. If a continuance is granted, the court may award expenses and attorney's fees, including compensation to witnesses for lost income and/or travel expenses and tax the same as court costs.

- **27.06 - Administration and Assignment of Circuit Court Jury Cases**

- a. The Presiding Judge shall designate a Circuit Judge as Assignment Judge.

- b. The Assignment Judge after consultation with the other Circuit Judges trying jury cases, will schedule the jury weeks. The Assignment Judge shall establish the "open" and "closed" docket.
 - c. The Circuit Court Clerk shall assign jury cases to the various courts for pre-trial proceedings.
 - d. Alternative Dispute Resolution Questionnaire. At the filing of each case, a questionnaire concerning ADR will be sent to each filing party or served with the complaint. Each party will send the form back indicating whether they wish to engage in an ADR procedure. This response form will then be routed to the individual judge. The judge may have an immediate conference with the parties or may wait until the Scheduling Conference. If both parties request a court ADR referral, they may jointly contact the individual judge for assignment if they cannot agree on a neutral.
 - e. Scheduling or Planning Conference. Each court shall establish a method by which the parties shall meet face to face within 4-6 months of filing. This conference may be held by the judge, law clerk, court officer, special master or in such other manner as established by the individual court. During this conference, the parties with the help of the judge or designee will discuss the track assignment of the case as outlined in section f below, use of ADR, preparation of a scheduling order, a second conference or pretrial if necessary, a trial date if applicable or another appropriate deadline to manage the case.
 - f. Differentiated Case Management. Every action filed in the Circuit Court shall be designated as a GSA, Expedited, Standard or Complex case. Notwithstanding the following, the parties may apply to the court to modify the designation. The designation will govern the administration and scheduling of the case.
 1. **GSA:** General Sessions Appeals are presumptively classified as "GSA". These are cases that can be prepared for trial with minimal discovery and other pretrial proceedings. The completion goal is 180 days from the date of filing. GSA cases must be set for trial in accordance with Local Rule 20.
 2. **Expedited:** A personal injury case with soft tissue damage, limited discovery needs, with no agreement for the use of ADR and party insistence on trial. The completion goal is 270 days from date of filing.
 3. **Standard:** A case with no unique circumstances requiring lengthy discovery or trial time. All cases are presumptively classified as "standard" unless otherwise designated. The completion goal is one year from date of filing.
 4. **Complex:** A case that will require lengthy discovery, trial preparation and or trial time, by reason of number of parties involved, number of claims and defenses raised, legal difficulty of issues presented, factual difficulty or a combination of these factors, which requires a customized Scheduling Order which contains dates for ADR, completion of discovery and time to set a trial. The completion goal is two years from date of filing.
 - g. Scheduling Orders. All cases shall operate under a Scheduling Order that establishes deadlines for completion of discovery, ADR, trial dates or date by which trial must be set. The date by which a trial must be set or the trial date shall appear in the first numbered paragraph of each Scheduling Order. If an order setting the case for trial is not filed with the Clerk by the required date, then the case shall be automatically dismissed without further notice. The Scheduling Order may not be changed without leave of court.
 - h. Central Assignment System. All Circuit Court cases for jury trials will be set on a central assignment docket, which will be administered as follows:
 1. The Circuit Court Clerk shall assign an employee to oversee and be responsible to the Assignment Judge for the administration of this system (hereinafter called the "Assignment Clerk.")
 2. A central docket will be maintained in the clerk's office by the Assignment Clerk for the setting of jury cases for trial.
 3. The Assignment Judge or his/her designee shall assign the cases set for trial in a given week, to the various Circuit Courts for trial, until all cases for that week are completed. In the event a case is not reached for trial in any available court, on the day it is set, the case will be carried over from day to day without loss of its place in the order of trial until it is either reached for trial or transferred to a ready court. In the event of hardship, a lawyer may apply to the court for resetting at the end of the second day.
 4. Any case may be exempted by the Assignment Judge or originating judge from the central assignment system and set for trial in the original court by a specific order.
- o **27.07 - Central Assignment of Circuit Court Non-Jury Cases for Trial**
 - a. All non-jury trials may be set by agreement provided the date is approved by the Assignment Clerk. If a trial will last more than one day, the Assignment Clerk must be notified.
 - b. Motions to set will be heard in the court to which the case was first assigned when filed. The availability of dates must be secured from and approved by the Assignment Clerk.
 - c. All orders setting non-jury cases for trial will include an estimation by counsel of how long the trial should last.

- **RULE 28. - SUBPOENAS**

- o **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. The clerk shall not issue a subpoena unless it shows on its face compliance with Tenn. R. Civ. P. 45.07.

o **28.02 - Time for Issuing Subpoenas**

Subpoenas for a local 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. If the witness is to be served out of the county, the subpoena must be issued by the clerk no later than fourteen (14) days before the date on which the case is set for trial and promptly mailed or otherwise transmitted to the out of the county Sheriff or other authorized person to effect service of the subpoena. The foregoing notwithstanding, the clerk shall not refuse to issue a subpoena even if requested after the dates set forth above.

o **28.03 - Address of Witness**

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

o **28.04 - Prison Inmates**

The attendance of prison inmate witnesses or parties in civil cases remains governed by T.C.A. § 41-21-304.

o **28.05 - Subpoenas For Medical Records**

All subpoenas issued by the Clerk or Clerk and Master for medical records shall reflect compliance with the Health Insurance Portability and Accountability Act (H.I.P.A.A.). See 45 C.F.R. § 164.512(e). The Clerk of Court or Clerk and Master shall not issue a subpoena pursuant to T.R.C.P. 45.02 for medical records unless the subpoena form includes the following:

HIPAA NOTICE

A copy of this subpoena has been provided to counsel for the patient or the patient by mail or facsimile on the _____ day of _____, 20__ so as to allow him/her seven (7) days to:

(A) serve the recipient of the subpoena by facsimile with a written objection to the subpoena, with a copy of the notice by facsimile to the party that served the subpoena, and

(B) simultaneously file and serve a motion for a protective order consistent with the requirements of T.R.C.P. 26.03, 26.07 and Local Rule § 22.10.

If no objection is made within seven (7) days of the above date, you shall process this subpoena and produce the documents by the date and time specified in the subpoena. The signature of counsel or party on the subpoena is certification that the above notice was provided to the patient.

• **RULE 29. - PRE-TRIAL PROCEDURE IN CIVIL CASES**

o **29.01 - Required Exchange of Witnesses and Documents**

At least seventy-two (72) hours (excluding weekends and holidays) before the trial of a civil case, opposing counsel shall either meet face-to-face or shall hold a telephone conference for the following purposes:

- a. to exchange names of witnesses, including addresses and home and business telephone numbers (if not included in interrogatory answers) including anticipated impeachment or rebuttal witnesses; and
- b. to make available for viewing and to discuss proposed 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.

o **29.02 - Notice Of Intent To Use Audio/Visual Recording or Animation Is Required**

When a party intends to utilize an audio and/or visual recording or animation in a jury trial, counsel must provide written notice to all adverse counsel at least ten (10) days before a trial. Adverse counsel shall be permitted to review the recording or animation in the form to be offered at 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.

o **29.03 - Briefs in Non-Jury Civil Cases**

In all non-jury civil cases, except divorces and General Sessions Court appeals, trial briefs are required. At least seventy-two (72) hours (excluding weekends and holidays) before the trial of a civil case, trial briefs shall be submitted to the court and furnished to opposing counsel. 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.

• **RULE 30. - MOTIONS IN LIMINE**

- a. All anticipated objections to deposition testimony including those made pursuant to T.R.C.P. 32.02 and 32.04, must be made by written motion in limine filed at least five (5) days before trial or the objection is waived.

- b. Counsel are encouraged to raise other appropriate evidentiary objections by written motion in limine filed at least five (5) days before trial.
- c. Motions in limine related to audio and/or video recording or animation, are governed by Local Rule 29.02.

- **RULE 31. - JURY TRIALS IN CIVIL CASES**

- **31.01 -Procedure**

In any civil case in which a jury is demanded, the words "JURY DEMAND" will be typewritten in capital letters on the first page of the pleading opposite the style of the case above the space for the case number.

- **31.02 -Number of Jurors**

In civil cases, a jury of six (6) will be convened unless one of the parties specifically made a written request for a jury of twelve.

- **31.03 -Challenges**

Agreeing to a jury of less than twelve (12) will not affect the number of challenges nor the manner of making them.

- **31.04 -Jury Instructions**

a. **Jury Instructions.** Requests for special jury instructions shall be filed at the end of the first day of trial or as otherwise directed by the court. Jury instructions may be requested thereafter only when the issue could not have been reasonably anticipated by counsel. When counsel submits special requests copies shall be furnished to adversary counsel. When a request for an instruction is made and the request is for a Tennessee Pattern Jury Instruction verbatim, the request shall be made by reference to "TPI (Civil) No: _____" with use of the most recent addition. If the request is for a modification of an existing instruction, the request shall identify the instruction to be modified by number and identify the deletion or addition. A request for modification or additional instructions must be accompanied by appropriate authority.

b. **Jury Interrogatories.** Requests for jury interrogatories shall be filed at the end of the first day of trial or as otherwise directed by the court. Jury interrogatories may be requested thereafter only when the issue could not have been anticipated by counsel.

- **31.05 -Copies for Jurors**

Counsel or a pro se litigant offering documentary evidence which he or she desires jurors to read shall provide a sufficient number of copies to enable each juror in court to have his or her own copy plus one copy for the court.

- **RULE 32. - COURT REPORTERS IN CIVIL CASES**

It is the responsibility of parties to arrange for court reporters in civil cases. Proceedings may not be postponed or delayed because of a court reporter's absence or tardiness.

- **RULE 33. - ORDERS AND JUDGMENTS IN CIVIL CASES**

- **33.01 - Preparation and Submission of Orders and Judgments**

a. **Orders.** Unless the court directs otherwise, attorneys for prevailing parties will prepare orders for entry by the court. All orders must be received by the clerk and served on opposing counsel within seven days following the day on which the ruling is made by the court.

b. **Written Findings and Conclusions.** Requests for written findings of fact and conclusions of law should be accompanied by proposed findings of fact and conclusions of law and submitted in writing before the entry of judgment.

- **33.02 - Disagreements over Contents of Orders and Judgments**

Orders containing only the signature of the attorney preparing the order will not be entered immediately but will be held by the clerk for three days. When opposing counsel receives a copy of a proposed order, he or she shall notify the Calendar Clerk of the assigned court if there is any objection to the order. If the Calendar Clerk receives no objection within the three-day period, the order will be submitted to the judge. When there is a disagreement as to the terms of the order, each party will submit a proposed order for the court's consideration.

- **33.03 - Court Costs**

a. All final judgments shall provide for the taxing of court costs. The clerk may refuse to enter any proposed agreed final judgments or compromise and settlement order until the court costs are paid.

b. Whenever it appears to the clerk that a judgment has been satisfied but that court costs have not been paid, the clerk may apply to the court for a retaxing of court costs. The clerk shall notify the parties of the application and the date and time it will be considered by the court.

- **33.04 - Payment and Satisfaction of Judgments**

- a. Funds paid to the clerk by check on local banks will not be disbursed until ten (10) days after the clerk receives the check. Funds paid to the clerk by checks drawn on out-of-town banks will not be disbursed until fourteen (14) days after the clerk receives the check. Alimony and child support checks may be disbursed sooner at the discretion of the clerk.
- b. Orders for disbursing funds, other than agreed orders, must be final before the clerk will disburse the funds.
- c. Upon receipt of payment in satisfaction of a judgment, whether through the clerk or otherwise, counsel will file a notice of satisfaction of judgment.

- **RULE 34. - FUNDS PAID INTO COURT**

Funds paid into court are not invested unless the clerk is directed in writing to invest the funds by the party on whose behalf the funds are held or by the court.

- **RULE 35. - FAILURE TO POST APPELLATE BOND**

In any civil case in which a notice of appeal has been filed, if the appellant fails to file a bond as required by Rule 6 of the Tennessee Rules of Appellate Procedure, the trial clerk shall certify such failure to provide an appeal bond to the Court of Appeals in the particular case. The bond is not required if the trial court rules that the appellant is a pauper/indigent and is not required to file the bond.

- **RULE 36. - RESERVED**

- **RULE 37. - SPECIAL PROCEDURES FOR DIVORCE OR DOMESTIC RELATIONS CASES**

- **37.01 - Uncontested Divorce Cases**

- a. When a divorce case is based on the ground of irreconcilable differences, it is not necessary to move for a default judgment. Once the statutory requirements have been met, such cases may be set for trial by consultation with the Calendar Clerk of the assigned court or they may be submitted on interrogatories by leave of the court.
- b. When a party in default desires to be heard on any matter other than the basic cause of action, he or she shall notify the court at least seven days prior to the hearing of the matters upon which he or she desires to be heard and shall file a brief statement setting forth the nature of the matter.
- c. If a marital dissolution agreement in a divorce action based on irreconcilable differences is delivered through personal service as allowed by T.C.A. § 36-4-103, the statutory requirements regarding service will be strictly construed.

- **37.02 - Contested Divorce Cases**

- a. In all contested divorce cases both parties shall file, on forms provided by the clerk, a certificate of readiness and sworn financial statements subject to such protective orders as may be applied for and granted. (See sample form set forth in the Appendix of Forms.) In the event both attorneys do not sign or one disagrees to filing, the attorney seeking a court date shall file a motion asking the court to enter a certificate of readiness and set the case. The motion should state that the case is at issue and adverse counsel refuses to sign the certificate of readiness.
- b. Both parties shall file a list of marital property and separate property along with a written proposal suggesting a division of the property. This shall be in addition to the requirements of Local Rule 29. The preparation of these documents shall be subject to protective orders as may be applied for and granted.

- **37.03 - Designation of Parties**

It is requested that in the complaint, answer and other pleadings the parties or counsel avoid the use of such terms as plaintiff, defendant, counter-plaintiff and counter-defendant, using instead such easily understood terms as husband and wife.

- **37.04 - Pendente Lite Hearings**

Complaints which include requests for pendente lite relief may be set for hearing to show cause by order or by motion, but such relief may only be granted in emergency situations. Proof of need may be presented in affidavits or through the testimony of witnesses at the hearing.

- **37.05 - Special Procedures for Divorce or Domestic Relations Cases**

[Domestic Relations Order](#) (November 17, 2010), governs the time frame for filing a motion prior to the scheduled hearing date.

- **RULE 38. - SPECIAL PROCEDURES FOR ADOPTIONS**

- **38.01 - Filing**

All adoption complaints shall be filed with the Circuit Court Clerk.

- **38.02 - Requirements for Setting Case**

In any case when the adopting parents are the grandparents, the aunt or uncle or the stepparents of the child

or children to be adopted, the case 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 that either of the adopting petitioners has previously been married to another person;
- d. a death certificate, if either natural parent is deceased;
- e. a death certificate of either petitioner's former spouse if that person is deceased.

o **38.03 - Presentation of Testimony**

The testimony of adopting petitioners will be heard in chambers if it is presented in person or, in the event the adopting petitioners are not within the State of Tennessee at the date of the adjudication, their testimony may be presented by interrogatory or deposition.

o **38.04 - Attendance of Adoptive Child**

Children fourteen (14) years of age or over are required to attend the adoption proceeding. If the child or children are less than fourteen years of age, the adopting petitioners may decide whether or not the child or children will attend the hearing.

o **38.05 - Setting of Hearing**

When an adoption case is ready to be set for hearing, counsel for the adoptive parent shall notify the clerk, who shall post a list of adoption cases to be heard at least one week prior to the hearing.

• **RULE 39. - SPECIAL PROCEDURES FOR PROBATE MATTERS**

o **39.01 - Attorneys:**

- a. With the exception of petitions by an adult to change his/her name and applications to open an estate pursuant to the Small Estate Exemption, all fiduciaries shall be represented by and all petitions and motions shall be filed by attorneys licensed to practice law in Tennessee, except that attorneys not licensed in Tennessee may appear and file pleadings provided that they have complied with Rule 19 of the Rules of the Supreme Court of Tennessee, and further except that adult persons acting in their individual capacity may file pleadings and appear pro se before the Court. However, fiduciaries who are not attorneys may submit their annual and final accountings and apply for their annual and final fee requests without the intervention of their attorney.
- b. An attorney who files a petition, opens an estate, or who is representing an Interested Party becomes the attorney of record for that party by filing a pleading or notice of appearance and shall remain attorney of record unless and until the Court grants permission to withdraw upon a showing of good cause pursuant to Local Rule 5.02. However, Guardians ad litem in conservatorships or guardianships shall automatically be relieved of their responsibilities upon the creation of conservatorships and/or guardianships unless the order expressly provides otherwise.

o **39.02 - Definitions; Service of Process; Notice; Interested Parties:**

- a. **"Service of Process"**: When required by statute or these Rules, Service of Process shall be effected by service of the Petition and a Summons in conformity with the requirements of T.R.C.P. 4 and due process requirements.
- b. **"Notice"**: When required by statute or these Rules, Notice to all Interested Parties shall be given by mailing, faxing or hand delivery of the required documents to each Interested Party (or their attorney) in conformity with requirements of T.R.C.P. 5. If an Interested Party is a minor or incompetent person, Notice shall also be given to the legal guardian(s) and/or custodial parent(s) of the minor and to the conservator of an adult person. If Interested Parties are under disability and have no custodial parent, legal guardian or conservator, such shall be brought to the Court's attention. The foregoing notwithstanding and in addition to the written forms of Notice set forth above, Notice of the intent to file the initial Petition to admit a non-holographic will to probate to obtain Letters Testamentary may be given by oral notice, whether in person, by phone or otherwise. If a party announces in Court that oral notice was provided, written confirmation of prior oral notice shall be filed with the Clerk.
- c. **"Adversary Proceeding"**: Adversary Proceedings include but are not limited to Civil Actions as defined under T.R.C.P. 2 and proceedings to remove a fiduciary, surcharge a fiduciary, probate a lost or destroyed will, determine beneficiaries, construe a will, cancel a devise, partition property for the purposes of distribution, determine pretermitted share, and for revocation of probate of a will. Other proceedings may be declared Adversary Proceedings. Adversary Proceedings shall be prepared, discovery conducted, and tried as Civil Actions pursuant to the Tennessee Rules of Civil Procedure, Rules of Evidence and these Local Rules.
- d. **"Interested Parties"**: An Interested Party is a person or entity having an interest in a matter before the Court. Depending on the type of estate or matter at issue, an Interested Party may include a spouse, beneficiary, legatee, devisee, creditor, fiduciary, and next of kin. Next of kin are those persons entitled under T.C.A. § 31-2-104 to inherit as if the decedent died intestate.

1. In a decedent's estate, an Interested Party shall include:

- a. In a solvent testate estate, the surviving spouse and all legatees, devisees and beneficiaries named in the testamentary instrument being offered or admitted to Probate;
 - b. In a solvent intestate estate, the surviving spouse and intestate heirs of the decedent as described at T.C.A. § 31-1-104.
 - c. In an insolvent estate or one that may become insolvent, whether testate or intestate, the persons set forth in (a) and (b) above and, in addition, creditors of the decedent whose claims may be adversely affected by a ruling on the matter(s) at issue.
 - d. In a matter contesting the validity of a testamentary instrument offered or admitted to Probate, the surviving spouse and intestate heirs of the decedent as described at T.C.A. § 31-1-104, all legatees, devisees and beneficiaries named in the testamentary instrument being offered or admitted to Probate, and any legatees, devisees, and beneficiaries of any preceding testamentary instrument to that being offered or admitted to Probate;
2. In a Conservatorship, Interested Parties include the spouse and next of kin of the respondent and the person(s) who have been primarily responsible for the respondent's person and/or finances.
 3. In a Guardianship, Interested Parties include both parents of the minor, the next of kin if both parents are deceased, legal guardians and person(s) primarily responsible for the minor's person and/or finances.
 4. In a proceeding to terminate a trust, Interested Parties include current income beneficiaries, remainder beneficiaries of the trust, all fiduciaries and the grantor, if living.
 5. Notice and Service of Process need not be served upon an Interested Party who joins in a petition as a Petitioner or who files a sworn waiver or consent.
 6. No action of Court shall be set aside due to the failure of an Interested Party to receive Notice unless the Interested Party shall timely appear and show substantial prejudice resulting from the lack of notice and a reasonable likelihood of prevailing on the merits.

o **39.03 - Estates of Decedents:**

- a. **Petitions to Probate Wills, Codicils and other Testamentary Instrument:** A verified Petition to probate a will, codicil, other testamentary instrument or to administer an intestate estate shall set forth such information as is required by statute and these Rules. In a testate estate the petition shall specifically include the names, and if known, addresses and relationships of all legatees and devisees under the testamentary instrument(s) and in addition thereto that of the surviving spouse and next of kin (even though not named in the will). The value of real and personal property to be administered need not be stated if bond is expressly waived and the named executor or alternate executor is willing to serve.
- b. **"Common Form" Proceedings:** Petitions to probate in common form may be heard either by the Court or by the Probate Master. Petitioner is encouraged to give Notice to all Interested Parties prior to the hearing of the fact that the petitioner is presenting the will for probate. The Probate Master may hear these matters provided the petition and all accompanying documents are in proper order, as determined by the Probate Master, and there are no questions of law to be determined. If there is a question of law or if the Probate Master declines to hear the petition, the petition shall be heard by the Court.
- c. **"Solemn Form" Proceedings:** Petitions to probate in solemn form must be heard by the Court. Service of Process shall be given as required by statute.
- d. **Holographic Will Proceedings:** All petitions for the probate of holographic testamentary instrument(s) will be heard by the Court. Notice shall be given to all Interested Parties, including the surviving spouse and next of kin whether or not named as beneficiaries under the testamentary instrument(s), of the fact that the petitioner is presenting the will for probate. If Notice is not provided, bond may be required regardless of express waiver of such in the will. The testimony of witnesses concerning the handwriting of the decedent must be taken in open court. Upon a showing of good cause the Court may allow such evidence to be taken by affidavit or oral deposition.
- e. **Proceedings to Administer Intestate Estates:** Petitions to appoint an Administrator of an intestate estate may be heard by the Court or the Probate Master. Notice shall be given to all Interested Parties, including the surviving spouse and next of kin, of the fact that the petitioner is filing a petition to administer the estate of the decedent and that no will can be located. If Notice is not provided, bond may be required. The Probate Master may hear these matters provided the petition and all accompanying documents are in proper order, as determined by the Probate Master, and there are no questions of law to be determined. If there is a question of law or if the Probate Master declines to hear the petition, a hearing on the petition may be set on the court docket. The Petition shall state the approximate respective values of the real and personal property being administered if known, the names and addresses of the spouse and next of kin of the decedent, and whether bond, inventory and annual accountings are waived by written waivers from the spouse and all of the next of kin.
- f. **Small Estate Administration Proceedings:** Estates to be administered under the provisions of T.C.A. § 30-4-101 et seq. (The Small Estates Act) may be heard by the Court or the Probate Master. Notice

shall be given to all Interested Parties, including the surviving spouse and next of kin, of the fact the petitioner is filing a petition to be appointed personal representative of the estate under the small estate exemption. If Notice is not provided, bond may be required. The Probate Master may hear these matters provided the affidavit and all accompanying documents are in proper order, as determined by the Probate Master, and there are no questions of law to be determined. If there is a question of law or if the Probate Master declines to act upon the affidavit, a hearing on the affidavit may be set on the court docket. If bond is to be waived, consent forms executed by the spouse and all next of kin allowing the Affiant to administer the small estate without bond must accompany the affidavit.

o **39.04 - Trusts:**

- a. **Termination of Trust:** Petitions to terminate a trust must be heard by the Court. Service of Process shall be given to all Interested Parties who do not join in the petition. The petition shall be verified and set forth facts concerning the creation of the trust, the purpose of the trust, the beneficiaries of the trust and the nature of their beneficial interest, the reasons for the termination of the trust, the appropriate share of each beneficiary who is to share in the proceeds of the trust upon termination, and whether the termination has been agreed upon by all Interested Parties.
- b. **Other Trust Proceedings:** Any ruling that may affect a substantive right of an Interested Party under a trust shall require due process of law prior to the determination of such rights by the Court. Whether motions for instructions, or requests for the Court to construe a trust, to determine whether a bequest has lapsed, or to remove or replace a fiduciary, etc. require the filing of a Petition with service of process or whether the matter may be attended to routinely upon routine Notice as distinguished from the requirements of Service of Process shall depend on the substantive nature of the underlying rights to be determined.

o **39.05 - Conservatorships:**

- a. **Petition for Conservatorship:** The petition shall be verified and contain the information required by statute and these Rules. Service of Process shall be provided to the respondent as required by statute and petitioner shall additionally provide Notice to all Interested Parties who do not receive notice from the Clerk. an order (in the form required by the Court) shall be submitted with the petition containing the appropriate blanks for the appointment of a Guardian ad litem and the setting of a hearing. the Court will appoint a licensed attorney as the Guardian ad litem and designate the hearing date. The Property Management Plan does not need to be filed with the Petition; however, the Property Management Plan shall be filed with copies provided to all Interested Parties including the Guardian ad litem no less than three (3) days prior to the hearing on the Petition, unless good cause is shown why such could not be done.
- b. **Orders Creating Conservatorship and Awarding Initial Fees:** To expedite the issuance of Letters of Conservatorship, counsel for the petitioner may submit two orders, one pertaining to the appointment of the conservator and a second which pertains only to fees.

o **39.06 - Guardianships:**

- a. **Petition for Guardianship:** The petition shall be verified and shall contain the information required by statute and these Rules. Notice shall be provided to all Interested Parties. Unless the petitioner is a parent of the minor or is a court appointed guardian of the person, the Court will appoint a licensed attorney as Guardian ad litem. When applicable and to facilitate such appointment, an order (in the form required by the Court) shall be submitted for the appointment of a Guardian ad litem. If the petitioner is a parent of the minor or court appointed guardian of the person, the petitioner may set the matter for hearing prior to the appointment of a guardian ad litem; however, if the Court determines at the hearing that the appointment of a Guardian ad litem may be in the best interest of the minor, the matter shall be set for further hearing following the appointment of a Guardian ad litem.
- b. **Orders Creating Guardianship and Awarding Initial Fees:** To expedite the issuance of Letters of Guardianship, counsel for the petitioner may submit two orders, one pertaining to the appointment of the guardian and a second which pertains only to fees.

o **39.07 - Sale of Real Estate:**

- a. **Petition to Sell Real Property:** Fiduciaries who desire to sell real property of a decedent or ward must file a verified petition to obtain Court approval. However, executors expressly authorized under a will to sell real estate are not required to obtain Court approval.
 1. **Decedent's Estate:** The personal representative must file a verified petition which establishes that the personal property is insufficient to pay debts and/or costs of administration of the decedent's estate. Service of Process shall be given to all persons who would inherit the real property if not sold and all persons claiming an interest in the real property. Interested Parties shall receive Notice.
 2. **Conservatorship/Guardianship:** The Conservator or Guardian must file a verified petition which establishes that the proposed sale is in the best interest of the ward or is necessary to pay the debts, taxes and/or expenses of the ward. Service of Process shall be given to all persons who have an interest in the real property. Interested Parties shall receive Notice.

3. **Listing Agreement:** Unless the Court expressly orders otherwise, if a petition to sell the real property of a deceased's estate or of a ward in a conservatorship or guardianship is granted, the order granting the petition shall authorize the fiduciary to market and/or to list the real property for sale by a licensed real estate agent or auctioneer. The auction and/or listing agreement and the resulting contract for the sale of the subject property must expressly state that the proposed sale of the property is **Subject to Court Approval**.
 4. **Motion to Approve Contract:** Once a proposed contract to sell real estate is obtained, a motion must be filed and served pursuant to Local Rule 26 to obtain Court approval. Notice shall be given to all Interested Parties. A copy of the contract shall be attached to the motion along with a report of the assessed value of the property by the County Assessor of Property. The Court may also require one or more professional appraisals of the property. Any proposed contract of sale must be approved by the Court prior to closing.
- o **39.08 - Name Change:**
 - a. **Adult:** The verified petition must comply with the statute and shall state the full legal name of the Petitioner, all prior names by which the Petitioner has been known, the place of residence of the petitioner(s), the birth date, age, social security number of the individual whose name is to be changed, and the State where the original birth certificate was issued. Copies of the original birth certificate, social security card and official photo identification shall be submitted with the petition. The individual whose name is to be changed must appear in Court at the hearing.
 - b. **Minor:** The verified petition to change the name of a minor must comply with the statute and be sworn to and signed by both parents and include copies of the original birth certificates of the child and both parents, social security card and official photo identification of both parents, photograph of the minor and social security card of the minor, if any. Both parents and the minor must appear in Court. If both parents do not join in the Petition or if the identity or location of a parent is unknown, the petition must be specific as to all pertinent facts including all efforts to identify or locate the parent who did not join in the Petition. If the father is not identified on the birth certificate, legitimation proceedings must be completed prior to filing of a petition to change the name of the minor child. Service of process is required for any parent or guardian who does not join in the petition. The verified petition must establish by clear and convincing evidence that the proposed name change is in the best interest of the minor, otherwise the petition shall not be granted.
 - o **39.09 - Adversary Proceedings/Civil Actions:**

Adversary Proceedings shall be prepared, discovery conducted and tried as Civil Actions pursuant to the Tennessee Rules of Civil Procedure, Rules of Evidence and these Local Rules. A party may initiate an Adversary Proceeding/Civil Action by the filing of a petition or complaint pursuant to T.R.C.P. 3, with service of process served on all defendants/respondents pursuant to T.R.C.P. 4. Additionally, the party initiating an Adversary Proceeding/Civil Action shall serve Notice on all other Interested Parties (those not plaintiff or defendant) that the Adversary Proceeding has commenced. No further notice of such action need be given to any Interested Party who is not a plaintiff or defendant in the Adversary Proceeding unless they intervene in the Adversary Proceeding. The caption of pleadings concerning Adversary Proceedings/Civil Actions arising out of an estate pending in Probate Court, shall include the name of the original estate and that of the first petitioner and first respondent in the related Adversary Proceeding. The Court may assign a derivative docket number to separately identify the Adversary Proceeding/Civil Action.
 - o **39.10 - Guardian ad litem:**
 - a. The Court will appoint a Guardian ad litem upon the filing of a petition to appoint a conservator or guardian; provided, however, in proceedings to appoint a guardian, the Court may waive the appointment of a Guardian ad litem if good cause is shown.
 - b. The Court may appoint a Guardian ad litem in matters involving the sale, improvement, or mortgage of any real property in which a minor or other person under disability has an interest; in matters involving the sale or disposition of a ward's personal property; in matters involving possible impropriety by a fiduciary; in matters concerning unauthorized encroachments or questionable management of a decedent's estate or a ward's assets under guardianships or conservatorships; in any matter the Court believes to be in the best interest of a minor, incompetent, absentee, unknown heir or Interested Party or to further the administration of justice.
 - c. The Guardian ad litem shall conduct an inquiry and file a report with the Court at least three (3) days prior to the hearing. The report shall contain the information required by statute and these Rules and such additional information the Court may require or the Guardian ad litem deems necessary. Reports are to be brief and to the point unless the complexities of the case require greater detail.
 - o **39.11 - Setting Hearings:**
 - a. The secretary to the Judge will designate available hearing dates for all matters that will require more than twenty (20) minutes. the Clerk may set matters that are reasonably expected to require no more than twenty (20) minutes on the regular court docket.
 - b. All matters may be set by agreement of counsel, subject to confirmation by the Judge's secretary for matters anticipated to require more than twenty (20) minutes or by the Clerk if the matter is not

expected to exceed twenty (20) minutes.

- c. Notice of the date and time the hearing is set shall be given to all Interested Parties by the attorney who applied for the setting of a hearing. If the hearing is reasonably expected to take more than twenty (20) minutes, the Order shall state the time required for the hearing.
 - d. If all Interested Parties agree, a matter presently set for hearing may be continued. Notice of such continuance and the new hearing date shall be promptly provided to all Interested Parties by the attorney who requested the continuance. If all Interested Parties do not agree to the requested continuance, the Court will endeavor to conduct a telephone conference with all Interested Parties to discuss the requested continuance.
 - e. For good cause shown, the Court may hear any matter, including but not limited to the above matters, without a special setting.
- o **39.12 - Petitions for Elective Share, Year's Support, Homestead, and Exempt Property:**
 - a. **Notice and Initiation of Petition.** Notice shall be given to the personal representative of the estate, the attorney of record, and all interested parties (including creditors if the estate may be insolvent) that the surviving spouse intends to assert a claim for an Elective Share, Year's Support, Homestead, and/or Exempt Property. If the personal representative is the surviving spouse, an administrator may be appointed.
 - b. **Prerequisites for Final Hearing** In all claims for Elective Share, Year's Support, Homestead, and/or Exempt Property, each party shall be and is required to submit to the court and to the opposing party (and all interested parties) no later than 72 hours prior to the final hearing an estimate of the value of the net estate and a written proposal reflecting the amount and percentage for an Elective Share, the amount for Year's Support, the amount of Homestead, and the amount of Exempt Property which the surviving spouse should be awarded. This proposal shall contain stipulations by the parties, if any, as to the values attributable to assets to be considered in computing the Elective Share, Year's Support, Homestead or Exempt Property.
 - o **39.13 - Motions:**

Motions will be heard by the court at 10:00 a.m. on Fridays, excluding holidays, and such other days as designated by the Court. Motions must be in writing and shall conform to the requirements of Local Rule 26. Parties represented by counsel shall provide written responses as required by Local Rule 26, otherwise they may not be permitted to oppose the motion. Nevertheless, Local Rule 26.04(f), which provides that motions shall automatically be granted if a written response is not timely filed, shall not apply in matters involving conservatorships, guardianships, fee requests, encroachments upon assets of an estate and other matters for which discretionary review by the Court is appropriate. With the exception of fee requests which are controlled by Rule 39.14(b), in all matters which require the discretionary approval of the Court, the movant should be prepared to present the motion with the anticipation the Court will have questions concerning the matter(s) at issue. Unless permission is obtained from the Court, no witness shall testify during the Friday Motion Docket.
 - o **39.14 - Fees of Fiduciaries and Attorneys:**
 - a. **Court Approval of Fees:**
 - 1. **Decedent's Estates.** In a decedent's estate, and with the exception of instances wherein all residuary beneficiaries of a solvent decedent's estate are competent adults and expressly consent in writing to the specific fee stated in the consent (see Local Rule 39.14(e)) and applications for fees immediately following a hearing in which the Court expressly instructed the applicant(s) to file an application for fees without the necessity of a motion and further hearing (see Local Rule 39.14(c)), any request for a fee shall be presented by Motion, supported by affidavits and if applicable billing statements and receipts, with appropriate service of all such documents upon Interested Parties.
 - 2. **Conservatorships and Guardianships.** In conservatorships and guardianships only, any person or party, whether the conservator, guardian, attorney, petitioner, guardian ad litem or whomever, requesting that fees or expenses be charged against or paid by the respondent, ward or their estate, shall obtain approval of the Court prior to payment or receipt of such fee. Any person who pays any such fee out of the funds of a minor, incompetent, respondent or ward in a conservatorship or guardianship without express Court approval may be personally liable for the funds advanced and reasonable and necessary costs, fees and expenses resulting from such unauthorized disbursement.
 - b. **When Motion Is Required.** In those matters for which a motion is required, motions for fees, expenses and/or costs to be charged against a ward's or decedent's estate or against an adverse party shall be filed, served and docketed according to Local Rule 26 and 39.13, provided however, such motions shall not be deemed granted merely because a written response is not filed. The Court has the responsibility to determine whether such fees are reasonable and necessary whether or not a response is filed. If a written response is timely filed, a hearing on the motion shall be conducted. If no response is filed, neither the person applying for a fee nor their attorney need appear in Court to present the motion. The Court will review the motion and affidavit(s) supporting the fee request and act upon the fee request without a hearing. After reviewing the motion and affidavit(s), if the Court desires a hearing

or additional information, the Court shall notify the applicant of the necessity of a hearing or additional information. Notice of the hearing shall expressly provide in bold:

THIS MOTION IS EXPECTED TO BE HEARD AT 10:00 A.M. ON FRIDAY _____, 20__ IN COURTROOM 408; HOWEVER, IF A WRITTEN RESPONSE IS NOT FILED BY THE END OF BUSINESS ON THE MONDAY PRECEDING THE HEARING DATE, THE COURT WILL REVIEW THE FEE REQUEST WITHOUT THE NECESSITY OF A HEARING.

- c. **When Motion is Not Required-"Fee Application"**. On certain occasions (with the prior direction from the Court), fees and expenses may be applied for without the necessity of filing a motion and docketing the matter for a hearing; nevertheless, in all such situations copies of the fee request and all documents attached thereto shall be served upon all Interested Parties even though no hearing is to be scheduled. Specifically, at the conclusion of hearings in which the Court approves a petition to create a conservatorship, guardianship and in certain other instances expressly directed by the Court, the Court may direct the person and parties who wish to be reimbursed their expenses and paid their reasonable and necessary fees incurred to date, to file a "Fee Application" in lieu of a motion. The Fee Application shall be served upon Interested Parties, along with the supporting documents, with the notice that the Court shall review and act upon the Fee Application without the necessity of a hearing. Unless one is expressly directed by the Court to file a Fee Application in lieu of a motion, all fee and expense requests should be presented by motion pursuant to Local Rule 26 with appropriate notice of a proposed hearing date.
- d. **Form of Motion and Fee Application.** Fee requests shall be set forth in a manner similar to the applicable form(s) recommended by the Court, which may be obtained from the Clerk. The Motion or Fee Application shall state the fee requested, hours worked, hourly rate charged, and total of expenses requested, if any, along with such other facts as may be necessary to support the fees and/or expenses requested. The Motion or Fee Application shall be supported by appropriate affidavits, receipts, if applicable, and billing statement. All billing statements or affidavits shall itemize a brief description of the services rendered, the time expended and date of service, respectively. The person requesting a fee has the burden of proof to establish the reasonableness and necessity of the fee and why such fee and related expenses should be charged against a decedent's estate or a ward of a conservatorship or guardianship.
- e. **Written consent To Fees and Expenses - (Decedent's Estates Only).** Court approval shall not be required if all residuary beneficiaries of a solvent decedent's estate are competent adults and consent to the specific fee stated in the consent. However, if Court approval is requested, a motion need not be filed or docketed for hearing provided that all residuary beneficiaries of a solvent decedent's estate are competent adults or entities and expressly consent in writing to the specific fee stated in the consent; nevertheless, a Fee Application should be presented in the fashion stated in the preceding subsections. The written consents must be supported by an appropriate affidavit that expressly states: **All residuary beneficiaries are competent adults or entities and have expressly consented to the specific fee requested, the estate is solvent, and the approval of fees being and to be requested shall not result in an insolvent estate or the inability to pay any valid claims of creditors. The foregoing procedure shall not be available if the estate is insolvent (or is reasonably likely to become insolvent) or if any residuary beneficiary is a minor or incompetent.**
- f. **Fee Requests in Conservatorships and Guardianships.**
1. **Initial Request for Fees:** Any person or party desiring to have their fees or expenses paid by the respondent/ward shall inform the Court of such request at the hearing wherein the Court either creates or dismisses a conservatorship or guardianship. The Court shall afford sufficient time to present affidavits and billing statements and may direct that such fee requests be presented by Motion pursuant to Local rule 39.14(b) or Fee Application pursuant to Local Rule 39.14(c).
 2. **Interim Request for Fees:** When a conservatorship or guardianship is in existence and an interim request for fees is made, such requests shall be presented to the Court by Motion with service on Interested Parties pursuant to Local Rule 26. Unless good cause is shown to justify otherwise, interim fee requests shall be presented annually following approval of the annual accounting or, if accountings are waived, on the anniversary date of the creation [of] the conservatorship or guardianship estate.
 3. **Final Fee Requests:** If a conservatorship or guardianship estate is to be closed, whether the minor has attained majority, the ward is deceased or his/her competency has been restored, all persons or parties desiring to have their fees of expenses paid by the respondent/ward or charged against an adverse party shall file a Motion pursuant to Local Rule 39.14(b) prior to the closing of the estate. Fees and expenses are to be determined and set forth in an order prior to or concurrent with the order closing the estate. Fee Applications and Motions to Set Fees filed after the closing of a conservatorship or guardianship may be barred unless good cause is shown.
- g. **Fee Requests in Decedent's Estates.**
1. **Interim Fee Requests:** Interim requests for fees shall be presented to the Court by Motion with service on Interested Parties pursuant to Local Rule 26. Unless good cause is shown to

justify otherwise, requests by the personal representative(s) or their legal counsel for fees or expenses in decedent's estates shall be presented annually following approval of the most recent annual accounting, or if accountings are waived, at such time as an annual accounting would have been made if accountings had not been waived.

2. **Final Fee Requests.** All persons or parties desiring to have their fees or expenses paid by or charged against the estate shall file a Motion pursuant to Local Rule 39.14(b) prior to the closing of the estate. All claims for fees and expenses are to be determined and set forth in an order prior to or concurrent with the order closing the estate. Motions to Set Fees filed after the closing of a decedent's estate may be barred unless good cause is shown.
 - h. **Notice to Interested Parties.** All Interested Parties shall receive a copy of any Fee Application and attachments thereto, and in the case of a Motion, shall also receive Notice of the date and time of the proposed hearing and a copy of the motion and attachments.
- o **39.15 - Accountings and Closing of Estates:**
 - a. Fiduciaries shall file an initial inventory and thereafter make annual accountings with the Probate Court Clerk until the estate is fully administered and closed. For good cause shown, the Court may extend or shorten the time for filing interim or final accountings. Accountings may be waived by the Court for good cause shown. Furthermore, in decedent's estates accountings may be waived if the decedent's will waives the requirement for the personal representative to make court accountings of the estate, or if all residuary beneficiaries have in writing excused the personal representative from filing all court accountings. The filing of an inventory may be waived in a like manner.
 - b. Copies of all accountings, interim or final, are to be furnished to all Interested Parties by the personal representative or their attorney of record.
 - c. Detailed accountings of solvent estates may be waived and the estate closed on receipt and waiver provided all residuary distributees are sui juris and acknowledge in writing that the estate has been properly distributed to them, that they file the statement in lieu of a more detailed accounting, and provided further that the personal representative, after the period for creditors to file claims against the estate has expired, files the required petition or statement with the Probate Court Clerk.
 - o **39.16 - Orders and Decrees**
In addition to other provisions of Local Rule 33 which apply to Probate Court:
 - a. Orders which waive bond, inventory or accountings shall expressly set forth the grounds for such waiver.
 - b. If the basis of a ruling is set forth in an order, such shall be correctly stated and without recitation to matters which did not occur or findings which were not made by the Court.
 - c. All Orders shall state the date the matter was heard (or docketed for hearing) and be presented to the Court within seven (7) days thereafter unless additional time is expressly granted by the Court.
 - o **39.17 - Instructing Clerk to Invest Funds:**
The Probate Court Clerk shall invest funds in interest bearing accounts only when there is a specific Order directing it to do so. Such orders should suggest the period of time the funds should be invested. All such orders must contain the full legal name, address and social security number of the person(s) whose funds are being invested. In guardianships, the date of birth and the date the minor shall become eighteen (18) years of age shall be stated in the order.

Appendix of Forms

Default Judgment Certificate

Plaintiff, by counsel, certifies that:

1. No papers have been served on plaintiff's counsel by the defendant(s) in default.
2. Defendant(s) were served on _____.

3. The amount due is as follows:

- (a) Total amount of the original obligation \$ _____
- (b) Amount paid by defendant(s) to be deducted
from the original obligation is \$ _____
- (c) Amount of any interest requested \$ _____
- (d) Amount of attorney fees requested \$ _____
- (e) Balance due is \$ _____

(f) If the balance due above is different from the amount sought in the default judgment, the reason is:

(g) If the basis of the claim is a promissory note, contract, or account, the original or a copy has been filed. If not, please attach or explain the absence.

(h) If attorney fees are requested state the basis for the fee obligation and attach documentation if not already in record. _____

(i) If attorney fees are requested, attach attorney affidavit specific enough to allow the judge or chancellor to set the fee in compliance with RPC 1.5(a).

IN THE FOURTH CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE

_____)

vs

NO. _____

_____)

CERTIFICATE OF READINESS FOR TRIAL
FOR CONTESTED DIVORCE CASES

The undersigned hereby certify that:

1. THE CASE IS AT ISSUE;
2. THAT THE GROUNDS FOR DIVORCE HAVE BEEN ASCERTAINED
INSOFAR AS THEY CAN BE;
3. THAT ALL NECESSARY, OR DESIRED DISCOVERY HAS BEEN
TAKEN; THAT ALL EXHIBITS PROMISED AT DEPOSITIONS HAVE
BEEN DELIVERED;
4. THAT THE PARTY HAS HAD REASONABLE TIME TO BE READY
FOR TRIAL;
5. THAT ALL WITNESSES HAVE BEEN LOCATED, INSOFAR AS
DEEMED POSSIBLE;
6. THAT THE CASE IS READY FOR TRIAL IN ALL RESPECTS AND
WILL REQUIRE APPROXIMATELY _____ FOR TRIAL;
7. THAT A LIST OF ASSETS INCLUDING MARITAL PROPERTY,

SEPARATE PROPERTY AND INHERITED PROPERTY, AND A
PROPOSED DIVISION, HAS BEEN FILED WITH THE COURT OR
WILL BE FILED BY COURT DATE;

- 8. THAT AN EXPENSE SHEET WILL BE FILED LISTING ALL
EXPENSES AND INCOME.

- 9. IF APPLICABLE, BOTH PARTIES CERTIFY THEY WILL PRESENT
AS EVIDENCE AT THE HEARING IN THIS CAUSE ANY AND ALL
INFORMATION PERTAINING TO HEALTH INSURANCE
CONVERSION UNDER THE COBRA LAW WHICH MAY BE
APPLICABLE TO EITHER PARTY TO ENSURE CONTINUOUS
INSURANCE COVERAGE.

THEREFORE, ALL COUNSEL REQUESTS THAT THE CAUSE BE PLACED ON
THE TRIAL DOCKET.

Attorney for Plaintiff

Date: _____

Attorney for Defendant

Date: _____

I HEREBY CERTIFY THAT A COPY OF THIS CERTIFICATE HAS BEEN FILED
WITH THE CLERK AND MAILED TO _____.

NOTE: IN THE EVENT BOTH ATTORNEYS DO NOT SIGN OR ONE DISAGREES
TO FILING, THE ATTORNEY SEEKING A COURT DATE SHALL FILE A MOTION
ASKING THE COURT TO ENTER A CERTIFICATE OF READINESS AND SET THE
CASE. THE MOTION SHOULD STATE THAT THE CASE IS AT ISSUE AND
ADVERSE COUNSEL REFUSES TO SIGN THE CERTIFICATE OF READINESS.

(SAMPLE)

RULE 24 AGREEMENT

In consideration of saving the time and expense of a complete court proceeding, the parties and their counsel agree to a summary procedure, pursuant to Rule 24 of the Local Rules of Practice for Courts of Record of Davidson County, Tennessee, as follows:

1. The proceeding will be held before Judge _____ without a jury.
2. The parties will voluntarily furnish whatever items are requested that would be subject to discovery under the law to each other.
3. The parties will appear with their attorneys at the date and time set by order of the Court.
4. The plaintiff's attorney will present his or her evidence on the issues to be tried and argue the plaintiff's right of recovery.
5. The defendant's attorney will then present his or her evidence followed by rebuttal by the plaintiff. Oral argument shall be allowed.
6. The Judge shall then deliberate and render a decision.
7. This decision will be final and an enforceable judgment will be entered.
8. The parties have agreed that the plaintiff's recovery shall be between \$ _____ as a low and \$ _____ as a high. The plaintiff's recovery shall be the stated low amount if the decision rendered is below that amount and the plaintiff's recovery shall be the stated high amount if the decision rendered is above that amount. Otherwise, the plaintiff will receive whatever decision is rendered between the high and the low.
9. There shall be no appeal of the decision from the Trial Court unless the parties specifically agree to reserve this right.
10. The Court costs in this case shall be paid 50% by the Plaintiff and 50% by the Defendant unless otherwise agreed to by the parties.

This the _____ day of _____, 20__.

Plaintiff

Defendant

Attorney for Plaintiff

Attorney for Defendant

IN THE _____ COURT OF DAVIDSON COUNTY, TENNESSEE

_____)

Plaintiff)

vs.)

NO. _____

)

_____)

Defendant)

(SAMPLE)

AGREED ORDER

In accord with Rule 24 of the Local Rules of Court and as evidenced by the parties' agreement dated the _____ day of _____, 20____, (Rule 24 Agreement), it appears to the satisfaction of the Court that this case shall be set for a hearing. The parties hereby waive their right to appeal the final decision of the trial judge and agree to appear at the hearing ordered below with their attorneys.

IT IS, THEREFORE, ORDERED that a Rule 24 hearing will be held before Judge _____, at _____ on the _____ day of _____ 20____, at ____o'clock __.m.

The final decision will be binding and enforceable and will incorporate by reference the Rule 24 Agreement made part of this Order.

Enter this _____ day of _____ 20__.

JUDGE

APPROVED FOR ENTRY:

Attorney for Plaintiff

Plaintiff

Attorney for Defendant

Defendant