# RULES OF CHANCERY COURT

## Twenty-Eighth Judicial District

## of

## Tennessee

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***REVISED JANUARY 2,2013***

**George R. Ellis**
Chancellor
Twenty-Eighth Judicial District of Tennessee
The Chancery Building
204 North Court Square
Trenton, Tennessee 38382

## CLERK AND MASTERS

**Alamo**

**James Stephenson, Jr.**
Crockett County Courthouse
1 South Bells Street, Suite 5
Alamo, Tennessee 3800
Phone 731 696- 5458
FAX 731 696- 3028

**Brownsville**

**Sarah Levy, Clerk & Master**
Haywood Justice Complex
100 S. Dupree Avenue
Brownsville, Tennessee 38012
Phone731 772- 0122
FAX 731 772-3197

**Humboldt**

**Amanda Brown**
City Municipal Center
1421 Osborne
Humboldt, Tennessee 38343
Phone- 731 784-9551& 9553
FAX 731 784-3833

**Trenton**

**Shonna Smith**
The Chancery Building
204 North Court Square
P.O. Box 290
Trenton, Tennessee 38382
Phone-731 855-7639
Fax-731 855-7655

## CALENDAR CLERK
## JUDICIAL ADMINISTRATIVE ASSISTANT

**Kim Norman**
The Chancery Building
204 North Court Square
Trenton, Tennessee 38382
Phone 731 855 7668
FAX 731 855 7846

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# RULES OF COURT

## 1:00 FORMER RULES OF COURT

All former rules of local practice for the Chancery Court of the Twenty-Eighth Judicial District, excepting those re-adopted herein, are void.

## 2:00 COURT SESSIONS

A. Regular sessions of court will open at 9:00 a.m. or at such other times as the Court directs. The Chancellor, lawyers and litigants shall be prompt at all sessions. There will be a one hour break for lunch at noon. The afternoon sessions will begin at 1:00 p.m.

B. To hear uncontested matters, motions, pretrial conferences and to set contested matters for trial, the court will be: in Alamo on the second Monday of each month; in Brownsville on the second and fourth Thursdays of each month; in Humboldt on the second and fourth Fridays of each month; and in Trenton on the first and third Fridays of each month.

C. Chancery Court meets Monday through Friday of each week. Any case filed in the Twenty-Eighth Judicial District can be heard in any of the four courts. It will be the responsibility of the attorney of record to bring the file to the appropriate court. No matters will be taken up without the proper case file.

D. Upon the Chancellor entering the courtroom, before the formal opening of Court, the court officer shall call the courtroom to order directing all to stand, and upon being so instructed by the Court, will open court in the manner following:

> "O Yes! O Yes! This Honorable Chancery Court of the 28th Judicial District of Tennessee is now open for the transaction of business pursuant to adjournment. All persons having business with this court draw near, give attention, and you shall be heard. " The Honorable _____, presiding. Be seated, please!"

At the closing the Chancellor shall direct the court officer to adjourn court, and the court officer shall require everyone to arise. He shall say: " This court is now adjourned."

At any recess the court officer shall require all present to stand , and he shall announce: "This court stands in recess for ...[ fifteen minutes, until one o' clock, the next day or a day certain]." This will depend on instructions from the Chancellor.

E. The space within the bar in the courtroom is reserved for attorneys and litigants engaged in trial. All other persons will sit outside the bar.

F. Counsel shall not place or leave upon the tables in the courtroom any hats, coats or newspapers, nor engage in any conversation or consultation in a manner calculated to disturb Orderly procedure during the trial of any case.

G. Counsel, clerks, court reporters and court bailiffs will be properly attired and will not dress in a manner to distract from proper decorum in the courtroom.

H. At trial, counsel shall avoid use of first names and other expressions of familiarity with adult witnesses, jurors, opposing counsel and all other persons present. During opening statement or closing argument no juror shall be addressed individually by name.

I. No witness shall address the Court or any counsel by the use of first names or other expression of familiarity.

J. Lawyers should request bench conferences only when absolutely necessary in aid of trial.

K. Counsel may never lean on the bench nor appear to engage the Court in conversation in a confidential manner.

L. Lawyers should refrain from interrupting the Court or opposing counsel until the statement being made is fully completed, except when absolutely necessary to protect the client. Lawyers should await the completion of the Court's statement or opinion before undertaking to point out objectionable matters. When an opposing lawyer objects, counsel should refrain from asking the witness another question until the Court has had an opportunity to rule on the objection. Objecting counsel shall state the legal grounds without argument or discussion except by leave of the Court.

M. Attorneys shall stand at their table or the podium while examining or addressing the Court or the jury.

N. Lawyers shall not approach the witness stand nor the bench without leave of the Court.

O. Small children will not be brought into court except when it is unavoidable. Attorneys are directed to apprise their clients and witnesses of this rule.

P. Attorneys shall not make remarks aside to each other, and they shall make all objections directly to the Court.

Q. No person, whether court is in session or in recess, shall eat any food or drink any soft drink or beverage in the courtroom, and no foods or beverages shall be brought into the courtroom at any time, except counsel and witnesses may have water provided by the Court.

R. No persons, whether court is in session or in recess, shall smoke or have any cigarette, pipe, cigar, tobacco, snuff, smoking device or chewing gum in their mouth while in the courtroom.

S. No person, other than officers in charge of the jury and attorneys when presenting or arguing a case, shall be allowed to stand, walk or be seated in the immediate vicinity of the jury box. The court officer shall strictly enforce this rule.

T. No attorneys, parties or any other persons involved in a case shall engage in a conversation with any juror until the juror's service has ended.

U. No person shall, within the courtroom, while court is in session, read any newspaper, magazine or book, unless the same is required in the presentation of the case.

V. On motion day all cases will be taken up by numerical order and no case will be taken out of sequence once court has started. If any attorneys or parties are not in the courtroom when their case is called, it will be placed at the bottom of the docket. If no one answers the second call, the case will be dismissed for failure to prosecute.

W. The photographing, recording, broadcasting, or televising of any judicial proceeding is controlled by the media guidelines and rules set forth in Tennessee Supreme Court Rule 10, Canon 3 (7) (c), with which every member of the media shall be presumed to be acquainted. In addition to the guidelines promulgated by Rule 10, the following additional media guidelines apply.

(1.) No equipment, lights or camera equipment will be permitted to block or impede access to the courtroom.

(2.) A victim of a sexual offense may not be photographed, filmed, videotaped or broadcast.

(3.) Jurors may not be photographed, filmed, videotaped or broadcast.

(4.) No witness, party or attorney may be photographed, filmed, videotaped or broadcast, if any objection is made by such person.

(5.) No broadcasting, televising, recording or photographing shall be permitted during a court recess or any proceeding conducted outside the presence of the jury.

(6.) Only one television camera operator utilizing one portable mounted television shall be permitted in the courtroom during any judicial proceeding.

(7.) Only one still camera shall be permitted in the courtroom during trials. Two still camera photographers shall be permitted during arraignment or suppression hearings with one photographer being designated from a local news gathering agency.

(8.) Only one audio system for broadcast purposes shall be permitted in any judicial proceeding.

X. When Court is in session, all present shall be seated at all times and shall not talk, laugh, whisper or otherwise make any noise.

**3:00 ATTORNEYS**

A. Attorneys shall be licensed to practice law in Tennessee or have present and participating co-counsel licensed in Tennessee.

B. Every attorney who has filed an appearance on behalf of a party shall be required to appear whenever any phase of the action is before the Court unless relieved by the Court.

C. All counsel who enter an appearance in a case will be counsel of record and may not withdraw except for good cause and by leave of the Court and upon motion and notice to all parties.

D. No counsel, except a partner or associate of the counsel of record, shall stand in for the counsel of record without prior permission of the Court.

E. All parties permitted by the Court to represent themselves without representation by attorneys are obligated to comply with these Rules.

F. Parties requesting the right to represent themselves shall file a written notice with the Clerk of the Court stating their intention to represent themselves. A copy of the notice shall be forwarded by the party to all attorneys of record and to all parties not represented by attorneys of record and shall contain a signed certificate of service. The notice shall include the full names of all parties seeking to represent themselves, the mailing address where court documents can be forwarded, and if available, a current telephone number. All parties representing themselves shall notify the Clerk and Master and all parties and attorneys of record of any change of address.

G. The Clerk and Master is not to file any pleadings or documents for parties representing themselves unless those documents and pleadings contain a certificate of service identifying all persons to whom the pleadings or documents are to be delivered.

## 4:00 COURT REPORTERS

A. If court reporters are necessary, it is the responsibility of litigants to make the arrangements. Proceedings may not be postponed or delayed because of a court reporter's absence or tardiness.

B. The court reporter shall keep and maintain all trial exhibits after the completion of the trial.

C. The court reporter shall not give directions to the witnesses or lawyers concerning difficulty in recording but shall address the Court if there are problems.

## 5:00 COURT FILES

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

B. No files shall be withdrawn from the office by anyone but the Chancellor, unless they are taken to the courtroom by the Clerk and Master, or by attorneys or their staff upon permission of the Court or Clerk and Master.

C. No one other than attorneys or their staff will be permitted to withdraw a file. No file will be withdrawn from the Clerk and Master's custody by attorneys or their staff without first obtaining permission from the Court or the Clerk and Master and signing a receipt to return the file on a specific date. The Clerk and Master shall prepare a proper receipt form with a space for the Court or the Clerk to sign and the attorney or their staff to sign. No file shall be checked out more than one (1) day before the trial and must be returned no later than one (1) day after the conclusion of the trial. All files will be transported by hand and shall not be posted through the mail.

## 6:00 DOCKET

A. The secretary of the Chancellor shall be the calendar clerk.

B. The Clerk and Master shall set settlement approvals on regular motion days. The Calendar Clerk shall set settlement approvals on days other than motion days.

C. The calendar clerk shall maintain the calendar for the district.

D. If the parties are agreed that the matter is ready to set for trial before the motion day, they may contact the calendar clerk by conference call of the attorneys and have the case put on the calendar for trial. The parties must file an agreed order with the calendar clerk who will then

take it off the motion day docket. This must be done five (5) days prior to the scheduled motion day.

E. Any default matter can be placed on the calendar by the attorney of record earlier than the ninety day setting if the statutory time has run.

## 7:00 INTERCHANGE

A. The Chancellor and the Circuit Judge within the judicial district may freely interchange without necessity of notice or entry of a formal order of interchange.

B. Uncontested divorces, worker's compensation settlements, minor's settlements and any other uncontested matters may be heard by either the Chancellor or the Circuit Judge regardless in which court the matter was filed. No order of interchange shall be required. The purpose of the Rule is to expedite such uncontested matters when the Chancellor is not readily available. Under such circumstances, counsel may set matters with the Circuit Judge without having to secure approval of the Chancellor. This rule also applies to General Session Judges where statute enables them with said jurisdiction.

## 8:00 EXHIBITS

After the final determination of any action, counsel shall have thirty days (30) within which to withdraw exhibits filed. In the event the exhibits are not so withdrawn, the Clerk and Master may destroy or otherwise dispose of such exhibits.

## 9:00 FILING AND SERVICE OF PAPERS

A. All papers, including pleadings, motions, proposed judgments and orders, shall be filed with the Clerk and Master. Briefs and depositions that are to be considered by the Court shall be **submitted in the Chancellor's office at least five (5) days before the trial.**

B. All papers must contain a certificate of service showing: the date of service, that all parties or counsel of record in the case have been served, and the manner of service. The Clerk and Master shall refuse to file papers without a certificate which complies with these rules and all applicable rules of Civil or Appellate Procedure. All service of process shall be accomplished consistent with the Tennessee Rules of Civil Procedure.

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

D. Pleadings, orders, and decrees shall set forth the docket number, style of the cause, the nature of same, and the name and signature of counsel. Original pleadings shall also contain the address, telephone number and disciplinary number of counsel.

E. No pleading shall be withdrawn from the Clerk's office without Court order.

F. All papers to be filed which require the signature of a party, the party's counsel, or other individual or entity shall contain **the original signatures .**

G. All cost deposits for filing and service complaints or orders shall be paid upon filing the complaints or orders along with the cost bond. In any case where the plaintiff wishes to file a complaint under a pauper's oath, the Clerk and Master shall require the plaintiff to provide information, on a form provided by the Clerk and Master, sufficient to establish that the requirements for such a filing are met.

H. In all divorce cases the petition shall include the following information:

1. Plaintiff's name (first, middle, last and if applies maiden name)
2. Plaintiff's residence (state, county and city or town)
3. Plaintiff's street and number address
4. Plaintiff's birthplace and birthdate
5. Defendant's name (first, middle, last and if applies, maiden name)
6. Defendant's residence (state, county and city or town)
7. Defendant's Street and number address
8. Defendant's birthplace and birthdate.
9. Defendant's and plaintiff's place of marriage (state and county)
10. Defendant's and plaintiff's date of this marriage
11. Number of children who are minors at the time of the filing
12. Any other litigation concerning the custody of such children in this or any other state in which either party has participated.
13. Plaintiff's and defendant's race (American Indian, black, white, etc.)
14. Plaintiff's and defendant's number of previous marriages
15. Plaintiff's and defendant's Date last marriage ended (if previously married) must specify: by death, by divorce or annulment or not previously married.
16. Plaintiff's and defendant's education (specify highest grade completed in elementary or secondary school and/or college).

The filing party shall provide an 8.5" x 11" envelope, labeled with the names of the parties and the docket number containing a statistical data sheet to be filed with the following information.

1. Full name of plaintiff and defendant

2. Social Security number of plaintiff and defendant.
3. Date of Birth of plaintiff and defendant.
4. Current mailing addresses of plaintiff and defendant
5. Full name, Social Security Numbers and Date of Birth for all Children born of this marriage.

**Upon written request** this information shall be made available to the Department of Human Services and any other agency required by law to have access to said information, and to other persons or agencies as ordered by the court.

I. When the court enters an order in which the paternity of a child is determined or support is ordered, enforced or modified for a child, the order shall contain the following information:

1. Full name and any change in name;
2. Social security number and date and place of birth;
3. Residential and mailing addresses;
4. Home telephone numbers;
5. Driver license number;
6. The name, address, and telephone number of the person's employer;
7. The availability and cost of health insurance for the child; and
8. Gross annual income.

J. In accordance with rule 5A.02 all original documents filed by faxes shall be filed with the Clerk & Master, within 30 days of facsimile. Facsimile shall not exceed ten pages including the cover sheet.

K.No cases, filed with the clerk and master, will be faxed to anyone.

**10:00 SETTING CASES FOR TRIAL**

Cases shall be set for trial in the following manner:

A. The Clerk and Master shall place the case on the calendar on the motion day 90 days from filing. These cases placed on motion day for status can only be continued with an Order setting a new date.

B. If the case is not disposed of at the first setting, the first setting will be treated as a pre-trial conference and the matter will be set for trial by the Court

C. When a case is set by agreement at the first setting, all counsel are certifying they are available for trial and that the case in all respects will be ready for trial on the trial date.

D. When a party objects to having a case set because trial preparation is not complete, the Court may issue a scheduling order that will establish deadlines for completing trial preparation and set a trial date.

## 11:00 CONTINUANCES

A. Cases may be continued only by leave of the Court. Cases will not be continued except for good cause which shall be brought to the attention of the Court by written motion with affidavit five days in advance of trial and heard in open court with all counsel present. There shall be no ex parte communications.

B. When application for continuance is based upon the illness of a party or a material witness, said application must be accompanied by a written statement of a physician specifying the type of illness, whether the illness is of temporary or permanent nature and whether or not such person is able to appear in court.

C. When application is based upon the fact that a material witness cannot be found, an affidavit must be filed giving the name of the witness, what evidence is expected to be proved by such witness and what effort has been made to locate said witness.

D. It shall be the duty of the parties to cause subpoenas to be issued for their witnesses, with addresses, at least five (5) working days before the trial for witnesses within the county and seven (7) working days for out of county witnesses. The failure of a witness to attend the trial for whom a subpoena has not been so issued, in conformity with this rule, shall not be grounds for a continuance.

E. If a case is continued or settled, the attorney who had subpoenas issued for witnesses is responsible for notifying those witnesses not to appear. Failure to do so could result in costs being assessed against that party.

F. When a case is set, failure to have completed discovery, unavailability of counsel on the trial date, inability to take deposition, or failure to have completed any other trial preparation will not be grounds for a continuance except for good cause shown.

G. All cases passed will be by written order, stating the reason for passing, at whose instance, and the date of reassignment.

H. In cases continued or passed for reassignment, the Court may award expenses and attorney's fees, including compensation to witnesses for lost income and/or travel expenses and court cost as the Court deems appropriate.

## 12:00 JURY DEMAND

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

B. In all civil cases the parties may stipulate that the jury consist of any number of persons less than twelve. Unless otherwise expressly demanded and stipulated, the Court will consider a demand for jury to be a request for a twelve-person jury.

C. Counsel must immediately give notice of settlement to the calendar clerk. If a case scheduled for jury trial in Chancery Court is settled or voluntarily dismissed after 4:00 p. m. on the working day preceding the trial date, the Court may tax jury expenses to the parties as court cost.

**13:00 DISCOVERY**

A. Interrogatories, requests for production, depositions, or any other discovery material shall not be filed with the Clerk and Master unless and until it is to be used in court or considered by the Court for any purpose.

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

C. Written interrogatories, including sub-questions, shall not exceed twenty-five questions in number without the express permission of the Court.

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

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

F. Request for admissions and request for production made pursuant to Rule 34 and Rule 36, Tennessee Rules of Civil Procedure, shall be so arranged such that after each separate request a blank space shall be provided reasonably calculated to enable the responding party to have his response typed in, or the answers to requests may be done on separate pages, with corresponding numbers to requests typed and with a copy of the original requests attached to the answers.

G. Motions to compel discovery shall:

(1.) Either quote verbatim the interrogatory, request, or question and any objection or response thereto, or be accompanied by a copy of the interrogatory, request, or excerpt of the deposition which shows the question and objection or response;

(2.) State the reason supporting the motion;
(3.) Be accompanied by a certificate of moving party or counsel that after consultation between the parties they are unable to reach an accord, or movant has attempted unsuccessfully to initiate a conference with opposing counsel to resolve the discovery dispute.

H. Motions for protective orders filed pursuant to Rule 26.03, Tennessee Rules of Civil Procedure, and motion to quash subpoena be accompanied by an affidavit or other evidence showing the need for the order shall:

(1.) Be accompanied by a proposed protective order;

(2.) Contain the certificate required of movant.

I. Agreements to furnish exhibits made during the taking of depositions may be enforced by motion made pursuant to Rule 37, Tennessee Rules of Civil Procedure.

J. Whenever request for discovery is made, the party seeking discovery shall serve each party with a copy of the request. Such service shall be made if 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.

K. As provided in Rule 29, Tennessee Rules of Civil Procedure, stipulations extending the time for responding to interrogatories to parties requests for production and requests for admissions may not be made without approval of the Court, absent consent of the counsel of record.

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

**14:00 MOTIONS**

A. All pretrial motions shall be in writing and must state specifically which Tennessee Rule of Civil Procedure, section of Tennessee Code Annotated or other authority is relied on for said motion. Motions to dismiss must be written **agreed** orders. Motions to continue a trial must be accompanied by a written **agreed** order containing **original** signatures of all council. Signing someone's name by permission **will not** be accepted. Agreed motions to continue a Status Hearing may be continued only by setting it for trial at least 5 working days before the status date hearing or direct permission from the Chancellor, 5 working days before the status date hearing , and must be followed up with a written agreed order.

B. Every motion or response which may require the resolution of an issue of law, or which legal authority is relied upon, shall be accompanied by a memorandum of law and facts in support thereof. Any motion, brief or memorandum of law that makes reference to a transcript or deposition shall state the specific page of the transcript. Whenever a memorandum cites an unreported Tennessee decision or a decision from a court of another state or federal jurisdiction, counsel shall attach to the memorandum a complete copy of the opinion, and counsel shall also furnish a copy of any such opinion to opposing counsel.

C. 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 the Monday before the Friday on which the motion is to be heard.

D. Replies to responses, if any, must be filed with the Clerk's office by the close of business a minimum of two days before the motion is to be heard. The reply must also be served on all other parties no later than 5:00 p. m. a minimum of two days before the motion is to be heard.

E. Where special circumstances warrant, motions may be specially set at a time other than on the motion docket by agreement of all parties and approval of the Chancellor in writing.

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

G. 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.

H. If an agreed order is to be submitted disposing of a motion, counsel shall advise Clerk and Master of the assigned court prior to the hearing or may so announce at the hearing.

I. All anticipated objections to deposition testimony pursuant to Rule 32.02 of Tennessee Rules of Civil Procedure, must be made by written motion in limine filed at least five days before trial or the objection is waived with the (2) working days from the filing to file a written objection.

J. Counsel are encouraged to raise appropriate evidentiary objections by written motion in limine filed at least five (5) working days before trial.

K. For the purpose of this rule, personal service means delivery, mailing or transmission of a facsimile such that the document served is physically received by the specified date and time. In the event personal service is effected by facsimile, an original copy of the document shall follow by delivery or mail.

L. Petitions for writs of certiorari, injunctions or other extraordinary relief shall be presented to the Chancellor consistent with the Tennessee Rules of Civil Procedure.

M. Restraining orders shall be prepared by counsel in accordance with Rule 65.03 of Tennessee Rules of Civil Procedure prior to submitting the request for relief to the Chancellor. The restraining order, except in divorce cases, shall provide for the setting of a hearing for a temporary injunction and shall provide a place for the Court to set the amount of a bond, a date, time and location for such hearing.

N. Motions for default judgment shall be made orally in the courtroom and in domestic cases there shall be two (2) witnesses to corroborate the plaintiff's testimony for grounds that require such proof. Five days notice to the defendant of the hearing must be filed prior to same. Rule 55.01, Tennessee Rules of Civil Procedure, effective July 1, 2000.

O. All motions, petitions or process in an existing case must contain the parties and court docket number to be filed with the court.

P. Motions may be dismissed with a written/agreed order.

Q. Motions set for status review may be continued only by permission of the Chancellor. Motions, other than those set for status review, may be continued with an agreed order, specifying the new date and signed with original signatures.

**15:00 SUBPOENAS**

A. All subpoenas for witnesses shall be issued and signed by the Clerk and Master in triplicate. One copy shall be designated "witness copy" and it is to be left with the witness. One copy shall be designated "file copy' and retained in the file. The original shall be the "return copy."

B. When a subpoena is issued, the Clerk shall:

(1.) Place the copy of the subpoena in the file of the case;

(2.) Deliver the service copy and original to the Sheriff or other authorized person for service; and

(3.) When the original subpoena is returned, the Clerk may remove the file copy and discard it

## 16:00 PRETRIAL CONFERENCE

A. A pretrial conference shall be held for each case in which, in the determination of the Court, such conference would be beneficial.

B. Each party appearing in the action shall be represented at the pretrial conference by counsel who will conduct the trial, or by co-counsel with full knowledge of the case, and with the authority to bind such party by stipulation.

C. In the event of the failure of the party or parties to appear, pursuant to the pretrial order of the Court, an ex parte hearing shall be held and appropriate judgment rendered or dismissal ordered, unless continued for good cause shown, pursuant to request made at least forty-eight hours in advance.

D. Counsel shall produce at the hearing for identification, examination, and discussion, all exhibits which they intend to offer as evidence at the trial, including, but not limited to, documentary proof, photographs, x-rays, and books of account, to be marked and identified in advance as evidence in the case.

E.. Counsel shall obtain the names, addresses, and nature of testimony of witnesses to be called at the trial and, if requested, furnish names to opposing counsel at or prior to the pretrial conference.

F. Counsel shall discuss, in advance of pretrial conference, the facts, issues, documents, and exhibits involved in the case so that as many stipulations and agreements as possible may be made in advance between the parties.

## 17:00 ORDERS

A. 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 Master within fourteen days on which the ruling is made by the Court, in compliance with Rule 58 of the Tennessee Rules of Civil Procedure. If the order is not filed within the time limit, an Order Dismissing the Case for Failure To Prosecute shall be entered.

B. 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 (3) working days plus an additional three (3) days as set out in RCP 6.05. Said order must have attached affidavit where opposing counsel has been notified of the proposed order. When opposing counsel receives a copy of a proposed order, they shall immediately notify the Clerk and Master of the assigned court if there is any objection to the order. If the Clerk and Master receive no objection within the three-day

period, the order will be submitted to the Chancellor. When there is a disagreement as to the terms of the order, the Clerk and Master will place the matter on the next motion day for the Court's consideration.

C. All orders granting default judgment on claims involving liquidated amounts shall be accompanied by a certificate as follows:

Default Judgment Certificate

1. No papers have been served on plaintiff"s counsel by the defendant.

2. Defendant(s) were served on _____.

3. The balance due is as follows:

   a. Total amount of the obligation $_____

   b. Amount paid by defendant(s) to be deducted from the original obligation $_____

   c. Amount of any interest requested $_____

   d. Amount of attorney's fee requested $_____

   e. Balance due is $_____

4. If the balance due above is different from the amount sought in the default judgment, the reason is:

_____

_____

5. If the basis of the claim is a promissory note, the original has been filed. If not, the reason is:

_____

_____

D. Funds paid to the Clerk and Master by check on local banks will not be disbursed until ten (10) days after the Clerk receives the check. Funds paid to the Clerk and Master by checks drawn on out of town banks will not be disbursed until fourteen (14) working days after the Clerk and Master receives the check.

E. Orders for disbursing funds, other than agreed orders, must be final before the Clerk and Master will disburse the funds.

F. Upon receipt of payment in satisfaction of a judgment, whether through the Clerk and Master or otherwise, counsel will satisfy the docket by certifying receipt of the judgment or filing a notice of satisfaction of judgment.

G. In all contested divorce cases both parties shall file five (5) working days before the trial a STIPULATION AND STATEMENT as follows:

IN THE CHANCERY COURT OF THE TWENTY-EIGHTH JUDICIAL DISTRICT OF TENNESSEE

_____

VS No_____

_____

STIPULATION AND STATEMENT

I. The contested issues in this cause include:

| | |
|---|---|
| _____custody of children | _____payment of alimony |
| _____child support amount | _____division of retirements |
| _____visitation | _____payment of attorney's fee |
| _____payment of debts | _____payment of court costs |
| _____division of property | _____other |

II. The Plaintiff expects to testify and expects to call the following persons who will testify as to the issue below:

| Name and Address of Witness | General Statement as to Testimony of Witness |
|---|---|
| 1._____ | _____ |
| _____ | _____ |
| _____ | _____ |
| 2._____ | _____ |

3.

4.

The Defendant expects to testify and expects to call the following persons who will testify as to the issue stated below:

| Name and Address of Witness | General Statement as to Testimony of Witness |
|---|---|
| 1. | |
| 2. | |
| 3. | |
| 4. | |

III Marital Assets/Personalty (property conceded to husband or wife);

| Description | Value | Conceded To Husband | Conceded To Wife |
|---|---|---|---|
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

IV. Marital Property (disputed as to division):

| Description | Value |
|---|---|

Property Disputed as to whether marital or separate (and in dispute as to division)

| Description | Value |
|---|---|

V. Separate Property (stipulated)

| Description | Value | Husband's | Wife's |
|---|---|---|---|

_____

_____

_____

VI Marital Debts:

| Description | Monthly Payment | Accepted Balance | Accepted by Husband | by Wife | Disputed |
|---|---|---|---|---|---|
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

VII Separate Liabilities:

| Description of Liability | Monthly Payment | Balance | Accepted By Husband | Accepted By Wife |
|---|---|---|---|---|
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

VIII Monthly Gross Income

Husband's Weekly child support under guidelines

Wife's Weekly child support under guidelines

Signature of party_____

Signature of Attorney_____

H. If any party request copies of a signed order or court record, they must provide two originals for signature and send a **stamped self-addressed** envelop for mailing.

## 18:00 WORKMEN'S COMPENSATION

A. In all worker's compensation cases copies of all medical testimony taken by deposition and intended for submission as evidence in chief will be forwarded directly to the Chancellor no later than five (5)working days prior to the trial date, simultaneously opposing counsel must be notified of this by mail, fax or by phone to allow the opposing council to file a written objection under Rule 14:00 J.

B. In all worker's compensation cases the following memorandum shall be filed. That portion of this form designated for completion by the plaintiff will be filled in and forwarded by counsel for the plaintiff to counsel for the defendant no later than ten (10) working days prior to the trial date. Counsel for the defendant shall fill in that information designated for completion by the defendant and forward it directly to the Chancellor no less than five (5) working days prior to the trial date.

C. A benefit review conference shall be accomplished prior to any trial.

PRETRIAL MEMORANDUM FOR
WORKER'S COMPENSATION CASES

STYLE:_____VS_____

County:_____Civil Action No._____

Plaintiff's Attorney:_____

Defendant's Attorney:_____

I. BACKGROUND INFORMATION:

Age_____ Marital Status_____Education_____

How injury occurred:_____

Nature of injury:_____

Physical limitations:_____

Work History:_____

Hobbies:_____

Other_____

II. GENERAL INFORMATION:

(to be completed by plaintiff) (to be stipulated by defendant)

| | stipulated | not stipulated |
|---|---|---|
| 1. Date of injury:_____ | Yes_____ | No_____ |
| 2. New law applicable?_____ | Yes_____ | No_____ |
| 3. Date notice given employer:_____ | Yes_____ | No_____ |
| 4. Average weekly wage: $_____ | Yes_____ | No_____ |
| 5. Rate of recovery: $_____ | Yes_____ | No_____ |
| 6. Dates of temporary total paid: _____ | Yes_____ | No_____ |
| 7. Dates temporary total unpaid:_____ | Yes_____ | No_____ |
| 8. Date of maximum recovery or return to work_____ | Yes_____ | No_____ |
| 9. Scheduled member/disability (%) _____ | Yes_____ | No_____ |
| 10. Returned to work at substantially same pay? | Yes_____ | No_____ |

| III. MEDICAL EXPENSES (unpaid and disputed only) | AMOUNT |
|---|---|
| 1. | $ |
| 2. | $ |
| 3. | $ |
| 4. | $ |
| 5. | $ |

6. $

7 $

IV. FACTUAL ISSUES: (completed by plaintiff and defendant)

1.

2.

3.

4.

5.

V. LEGAL ISSUES: (completed by plaintiff and defendant)

1. Proposition of law and citation (submitted by_____)

2. Proposition of law and citation (submitted by_____)

3. Proposition of law and citation (submitted by_____)

(Include signature of party and attorney)

NOTE : BRIEFS MAY ALSO BE SUBMITTED AT THE OPTION OF THE PARTIES.

**19:00 ESTATE**

A. If surviving spouse applies for an elective share, not less than ten (10)working days written notice shall be given to the personal representative of the estate, the attorney of record, and all interested parties that the spouse will appear at a certain time in open court to signify that the spouse elects to take elective share and, if desired, to have elective share set aside.

B. The personal representative or attorney for the estate shall be present at the hearing, unless the personal representative and all interested parties consent, in writing, for the elective share election to be entered of record.

C. Ten (10) working days written notice shall be given to the personal representative, the attorney of record, and all interested parties of the time that a petition to set aside a year's support will be presented, and the personal representative or the attorney for the estate shall be present at such hearing.

D. An estate of a deceased person may be closed upon the sworn petition of the personal representative and order in lieu of a final settlement if:

(1.) The estate is solvent;

(2.) The time for filing claims with the Clerk and Master has expired;

(3.) Written notice has been given to all known and reasonably ascertainable creditors;

(4) The personal representative has complied with Tennessee Code Annotated 30-2-301 requiring a copy of will to be furnished to beneficiaries;

(5) No residuary beneficiary is under disability or the guardian or conservator waives an accounting for a person under disability;

(6) Where a trust is created in a will the trustee of such trust may waive final settlement if the receipt of the trustee incorporated in detail the assets that constitute the trust estate;

(7) Written evidence of satisfaction and release of all claims filed is attached to the petition or filed in the Clerk and Master's office;

(8.) Every residuary beneficiary has received his or her full share of the estate, and has either joined in the petition or signed a receipt in which the final settlement is waived;

(9) A certificate from the Tennessee Commissioner of Revenue showing full payment of estate taxes, or non-taxability of the estate is attached to the petition.

(10) No estate can be closed without Tenn Care release (TCA 71-5-116C(2)).

E. A guardianship of a minor may be closed on sworn petition signed by both the guardian and the ward and an order in lieu of a final settlement provided the petition shall contain:

(1) A statement that the minor has attained the age of eighteen years;

(2) A statement that all assets have been delivered to the ward; and

(3) A statement of the ward that a final settlement is expressly waived.

F. A guardianship or conservatorship of a person under mental disability may be closed upon the sworn petition of the guardian or conservator in lieu of a final settlement:

(1) Upon final judicial restoration of competency on evidence;

(2) Delivery of all assets to the ward; and

(3) The attachment of a sworn receipt in full from the ward in which the ward waives notice of and the filing of a final settlement.

G. Upon the death of a person under guardianship or conservatorship a final settlement must be filed.

H. The Court will set the fees of personal representatives and attorneys of decedent's estate upon written sworn petition filed by the personal representative.

The personal representative may be allowed all necessary expenses in the care, management and preservation of the estate, and may be allowed compensation, as hereinafter provided, for services rendered, unless the decedent, by will, makes other provisions for compensation of the personal representative, and unless the personal representative renounces or disclaims any and all interest in the compensation specified in the will by filing a written instrument.

The Court will set the fees of attorneys for the estates when no fee is provided for in the will. In determining compensation to an attorney, the Court will consider the amount and character of the services rendered, complexity of the estate, time and trouble involved, character and importance of any litigation, amount of money or value of property involved, professional skill and experience called for, and character and standing of the attorney.

In setting all fees the Court may consider: any extraordinary services, such as sales or mortgages of real or personal property, will contest or other such litigation; lengthy, contested or litigated claims against the estate; tax returns or audits by any federal or state agencies; the managing or selling of the decedent's business; or special services as may be necessary for the personal representative to prosecute, defend or perform.

The Court, in fixing the fees or compensation to personal representatives when no compensation is provided by will, shall consider the following guidelines based on the value of the gross estate, including real estate to the extent services are rendered in connection with the real estate, plus any income earned during the administration of the estate.

| | Value of Estate | Percentage as Fees |
|---|---|---|
| First | $20,000 | 5% |
| Next | $80,000 | 4% |
| Next | $150,000 | 3% |
| Next | $500,000 | 2% |
| Over | $750,000 | 1% |

If there are two or more personal representatives applying for compensation, the Court shall apportion such compensation pursuant to any agreement; otherwise, it shall be according to the services actually rendered by each.

Where the attorney also serves as personal representative only one fee shall be allowed, and the Court in fixing same shall take into consideration all services rendered.

In lieu of the fee of the attorney for an estate being set on a percentage basis, the Court may consider a fee based on an itemized, hourly basis using as a guideline the rate of $75.00 per hour to $150.00 per hour.

No fees or compensation in excess of $1,000.00 to accountants or other professionals, such as appraisers, will be allowed by the Court unless a petition setting forth the facts and requesting approval is filed and approved by the Court.

All interested parties shall be given ten (10) working days written notice of the date and time of hearing and a copy of the petition filed by the personal representative for fees or compensation to personal representatives, attorneys accountants, or other professionals.

The petition shall contain the following:

(1.) Description of the assets of the estate;

(2.) The value of the gross estate;

(3.) The value of the probate estate;

(4.) The amount of income earned by the estate;

(5.) The amount of compensation requested by the personal representatives attorneys, accountants, or other professionals;

(6.) A statement that all interested parties have been notified;

I. Estates filed for probate shall be placed on the docket for hearing nine (9) months from the date of filing for closing the estate or status conference. .

## 20:00 REQUESTS FOR SPECIAL INSTRUCTIONS, SPECIAL VERDICTS AND FINDINGS OF FACT AND CONCLUSIONS OF LAW

A. When counsel submits special requests pursuant to Rule 51, Tennessee Rules of Civil Procedure, copies will be furnished to adversary counsel and to the Court before the trial. 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 Tennessee Pattern Jury Instructions (Civil) No:----------. If the request is for a modification of an existing instruction, the request shall identify instruction to be modified by number and identify the deletion or addition. When a request for an instruction is made and there is no instruction on the subject in the Tennessee Pattern Jury Instructions, this fact must be stated in the request.

B. Requests for special verdicts or written interrogatories made pursuant to Rule 49, Tennessee Rules of Civil Procedure, must be made before commencement of the trial and must be accompanied by proposed verdict forms, written interrogatories, and proposed instructions which will be given to the jury along with the special verdict forms or interrogatories. The Court shall inform counsel of its proposed action on the requests prior to their arguments to the jury.

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

## 21:00 TIME STANDARDS

A. All cases must be concluded or set for trial within twelve (12) months from date of filing unless the Court has directed a longer period for specific cases. These time standards will be implemented by appropriate orders from the Court.

B. To expedite cases, the Court may take reasonable measures to purge the docket of old cases by entry of orders of dismissal which shall be considered without prejudice unless otherwise indicated.

C. In any case where a petition for removal to Federal Court under 28 U.S.C.S. 1446 is filed, the Clerk will send copies of all pleadings in the case to the Federal Court, remove said case from the docket and bill costs to the party who filed the petition for removal.

D. In any civil case where the Court has received notice of filing of bankruptcy of a defendant, the case will be purged from the docket at the expiration of six (6) months from the notice of filing bankruptcy, with costs assessed to plaintiff.

E. Copies of the order dismissing the case for want of prosecution shall be mailed to all counsel of record and to the party in default, if their whereabouts can be ascertained upon reasonable inquiry by the clerk.

## 22:00 JUDICIAL SALES

Upon the entry of an order, decree or judgment directing the sale of real property, the Clerk and Master serving as Special Master shall cause to be filed a title opinion issued by the attorney requesting the sale.

## 23:00 COMPENSATION OF THE CLERK AND MASTER WHEN NOT OTHERWISE FIXED

A. Pursuant to Sections 8-21-401 and 8-21-404 TCA, the Clerk and Master is authorized and empowered to collect as commission, unless otherwise fixed by order of the Court in the case, the following:

(a) For selling (real or personal) property, collecting, receiving and paying out the proceeds:

Ten (10%) percent on the first $6,000.00 with a minimum fee of $300.00
Of remaining amount 5% up to $ 20,000
4% up to $ 80,000
3% up to $150,000
2% up to $500.000
1% up to and over $750,000

## 24:00 PARENTING PLAN

Pursuant to Public Chapter 127, amending T. C. A. 36-6-404, the Administrative Office of the Courts developed a parenting plan form that shall be used consistently by each court within the state that approves parenting plans pursuant to 36-6-403 or 36-6-404. The A. O. C. mandated to distribute this form for the use of those courts no later than June 1, 2005.

Based on this new public chapter, the A.O.C., in consultation with the Family Law Section of the Tennessee Bar Association and the Tennessee Judicial Conference Domestic relations Committee and other knowledgeable persons, the finalized form that can be found on the A. O. C. website at www.tncourts.gov (under FORMS & PUBLICATIONS then COURT FORMS).

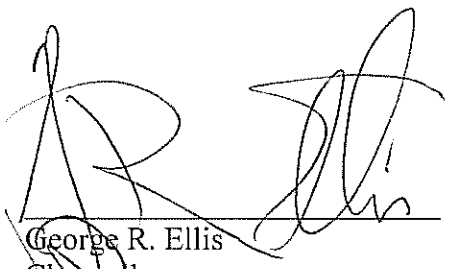
Parenting Plan must be signed by mother and father unless the attorney of record has power of attorney.

A wage assignment order by the court must be attached to the parenting plan for the clerk to mail certified.

## 25:00 ADOPTION OF RULES

WHEREFORE, IT IS CONSIDERED, ORDERED, AND ADJUDGED, the foregoing rules of the Chancery Court of the Twenty-Eighth Judicial District of Tennessee are hereby adopted and shall be forthwith entered upon the Minutes of the four courts.

IT IS FURTHER ORDERED AND ADJUDGED, that these rules shall become effective on the first day of November, 1995, and revised and amended on January 2, 2013.



George R. Ellis
Chancellor
Twenty-Eighth Judicial District
of Tennessee