

# Motions Practice

## A Court Reference Guide for Tennessee Child and Parent Attorneys

*Motions in dependency and neglect and termination of parental rights hearings.*

### THE LAW

Tennessee Rules of Juvenile Practice and Procedure Rule (TRJPP)

- Rule 105 (b): Motions
  1. Motions must be in writing unless made orally during a hearing and state with particularity the grounds and relief sought.
  2. Clerk schedules tentative date;
  3. Motion must include expected hearing date and be served within a reasonable time before that date.
  4. No written response is *required*; courts may request one.
- Rule 305: Discovery
  - (b) Shall attempt to achieve necessary discovery informally before filing to compel.
  - (f) If contested, may be effectuated according to TN Rules of Civil Procedure.
    - Motions to compel or quash discovery follow TRCP Rule 37 and related rules.
    - Motions on discovery subject to the evidentiary provisions of TRE Rule 43.02.
  - Document good faith efforts before formal discovery motions.

Tennessee Rules of Civil Procedure (TRCP)

TRCP apply in:

- T.C.A. § 36-1-113: Termination of Parental Rights Hearings
- T.C.A. § 36-2-301: Parentage
- T.C.A. § 36-6-306: Grandparent Visitation

T.C.A. Title 37 and Title 36: Provide substantive grounds for dependency, neglect, reasonable efforts, and termination.

Local Rules: Apply in all jurisdictions.

### FOUNDATIONAL PRINCIPLES

- Every Filing Should Advance Client Goals: Motions are tools to achieve permanency and preserve credibility.
- Build Record: Always request written findings for dispositive or evidentiary motions.
- Be Strategic: Avoid over-filing or motions lacking merit; use informal resolution first.
- Preserve the Record: State grounds, cite rule/statute, and request specific relief.
- Collaborate Before Filing: Judges expect good faith attempts at informal resolution.

### CHILD TESTIMONY AND ACCOMMODATION

#### MOTIONS

- TRJPP Rule 306 (court must use accommodations to reduce trauma) and TRE Rule 601 (children presumed competent)
  - See: *In re Kansas B.* (Tenn. Ct. App. 2022) – Exclusion for distress alone is error. Court must attempt accommodations first.
- Practice Tip: Propose closed courtroom, in-camera testimony, comfort items, or support person/animal.
- Cite TRE Rule 803(4) (hearsay statements for medical diagnosis/treatment) or Rule 803(25) (hearsay statements of abuse/neglect) when seeking to admit child statements instead of live testimony.

#### REASONABLE-EFFORTS MOTIONS

Purpose: Compel DCS to provide reunification services or document failure to do so.

- Examples:
  - Failure to provide visitation
  - Failure to provide parenting services
  - Failure to locate parent or kin
  - Failure to meet educational needs
- Case Law: *In re Kaliyah S.*, 455 S.W.3d 533 (Tenn. 2015).
- Practice Tip: Request findings on reasonable efforts at every stage in the proceeding including every review or permanency hearing.

#### PROFESSIONALISM AND CLARITY

- Be Focused: Limit arguments to your strongest two or three themes.
- Be Clear and Concise: Lead with your best point; write plainly and directly.
- Be Professional: Argue law and facts, not personalities. Judges value civility and credibility.

#### PRACTICAL TAKEAWAYS

- File with Purpose: Every motion should serve client goals and advance permanency.
- Cite the Authority: Anchor each motion in TRJPP, T.C.A., or controlling case law.
- Request Written Findings: Ensures reviewable record and clear appellate path.
- Preserve the Record: Always state grounds and relief requested.
- Collaborate Before You File: Demonstrate professionalism and efficiency.
- Time It Right: Observe TRJPP Rule 105 notice and local motion-day requirements.

#### SAMPLE MOTIONS

<https://www.tncourts.gov/programs/court-improvement/forms-orders>

- *Motion and Order to Declare Complex*
- *Joint Motion for Lack of Reasonable Efforts*
- *Motion for Lack of Visitation Reasonable Efforts*

## **COMMON TYPES OF MOTIONS IN JUVENILE COURT**

Type	Authority / Rule	Purpose	Practice Notes
Discovery Motions	TRJPP Rule 305	Compel production, protect confidentiality, or sanction noncompliance.	<b>Attempt informal disclosure first; file only after good-faith efforts fail.</b>
Motions in Limine	TRE Rule 403 & 404(b); TRJPP 306	Exclude prejudicial, irrelevant, or cumulative evidence before trial.	<b>Use even in bench trials to shape appellate record; discuss child testimony early.</b>
Reasonable Efforts Motions	T.C.A. § 37-1-166; <i>In re Kaliyah S.</i>	Compel DCS services, visitation, or documentation of efforts.	<b>Not a defense to TPR but vital at review and permanency hearings.</b>
Motions for Return or Trial Home Visit	T.C.A. § 37-1-130(d)	Seek child's return or challenge unsafe THV.	<b>File within 15 days of DCS THV notice if objecting.</b>
Protective Orders	TRE Rule 611; TRJPP Rule 305	Protect privileged communications or limit disclosure.	<b>Use to safeguard therapy records or child testimony.</b>
Motions to Exclude Evidence	TRE Rule 802 & Rule 901	Exclude unproduced or unreliable evidence.	<b>Assert lack of foundation or hearsay basis.</b>
Motions to Quash/Extend Time	TRJPP Rule 105	Challenge improper subpoenas or deadlines.	<b>Support with due process and relevance arguments.</b>

## **TENNESSEE CASE LAW: MOTIONS PRACTICE IN JUVENILE COURT**

Case	Holding	Practice Notes
<i>In re Rhyder C.</i> , (Tenn. Ct. App. July 21, 2022)	Summary judgment affirmed; parent failed to dispute material facts or justify continuance under TRCP Rule 56.07 (TPR).	Continuance & Summary Judgment Motions: Affidavits must support TRCP Rule 56.07 requests. Failure to oppose summary judgment can forfeit rights.
<i>In re Carolina M.</i> , (Tenn. Ct. App. Oct. 28, 2016)	TRCP Rule 11 sanctions upheld against attorney for improper contempt petitions against a CASA volunteer (in discovery).	Sanctions & Contempt Motions: Misusing contempt motions can result in TRCP Rule 11 sanctions. Use appropriate channels for discovery disputes.
<i>In re Lucas H.</i> , (Tenn. Ct. App. May 26, 2021)	Juvenile court erred in compelling mental health record disclosure; privilege upheld in discovery.	Mental health records protected absent abrogation per T.C.A. § 37-1-411; TRJPP Rule 305(f) must be compliant with the TCA. Discussion of appealability of final order and exceptions per TRCP (applicable to discovery motion).
<i>In re Josephine H. et al.</i> (Tenn. Ct. App. Sept. 4, 2024)	Post-adjudication placement with a relative affirmed; court properly applied best interest standard.	Dispositional Motions: Best interest governs post-adjudication placement. Courts rely on T.C.A. § 37-1-130 findings.
<i>In re Epik W.</i> , (Tenn. Ct. App. Apr. 10, 2024)	Only final orders are appealable under T.C.A. § 37-1-159.	Interlocutory orders (including motion denials) require a common-law writ of certiorari for review. Must understand how to preserve issues and seek proper review channels to protect their client's rights.
<i>In re Brian G.</i> , (Tenn. Ct. App. Jan. 30, 2015)	TRCP Rule 52.01 doesn't apply in D&N (except discovery motions); use TRJPP Rule 310 for post-trial relief.	Use TRJPP Rule 310 instead of TRCP Rule 52.01 when seeking amended findings.
<i>In re Anna W.</i> , (Tenn. Ct. App. Jan. 27, 2022)	Continuance denied where parent failed to appear or justify absence; hearsay report admitted in error but harmless.	Continuance & evidentiary motions: Courts require verified documentation for continuances. The ruling on the motion will not be disturbed unless the record clearly shows abuse of discretion and prejudice to the party seeking a continuance (State Dep't of Child.'s Servs. v. V.N., Tenn. Ct. App. 2008). Admissible hearsay must meet the requirements of a hearsay exception.