

PRESENTATION

2022 TENNESSEE JUDICIAL ACADEMY

**PREPARATION
FOR AND TRYING
A CIVIL JURY
TRIAL**

IN THE CIRCUIT COURT FOR MAURY COUNTY, TENNESSEE

AT COLUMBIA

	,)	
)	
Plaintiff,)	
)	
vs.)	NO. _____
)	
	,)	
)	
Defendant.)	

SCHEDULING ORDER

By the agreement of counsel and/or the parties, as signified by their signatures appearing below, the parties have agreed to the establishment of a Scheduling Order, more specifically set forth below.

It is thus, ORDERED, ADJUDGED and DECREED as follows:

1. Written discovery. All written discovery shall be submitted on or before the ___ day of _____, 20__.
2. Answers to written discovery. All written discovery shall be answered on or before the ___ day of _____, 20__.
3. Oral discovery. All oral discovery shall be taken on or before the ___ day of _____, 20__.
4. Disclosure of Plaintiff(s) experts. Plaintiff(s) shall disclose the identity of any and all expert witnesses which Plaintiff(s) anticipate(s) calling at trial on or before the ___ day of _____, 20__.

5. Disclosure of Defendant(s) experts. Defendant(s) shall disclose the identity of any and all expert witnesses which Defendant(s) anticipate(s) calling at trial on or before the ___ day of _____, 20__.

6. Dispositive Motions. Any and all dispositive Motions will be filed on or before the ___ day of _____, 20__.

7. Motions in Limine. All Motions in Limine will be filed on or before the ___ day of _____, 20__.

8. Trial Date(s). The following trial date(s) have been established: _____, and the Clerk is Ordered to docket same.

9. Pre-Trial Motions. Any and all pre-trial Motions shall be heard on the ___ day of _____, 20__ at ___ .m.

10. Pre-Trial Conference. The pre-trial conference in this matter shall be held on the ___ day of _____, 20__ at ___ .m.

SO ORDERED this ___ day of _____, 20__.

Judge _____

Clerk's Certificate of Service

I, the undersigned Clerk hereby certifies that I have sent a true and exact copy of the foregoing Order to the parties at their last known address, by U.S. Mail with sufficient postage thereon to deliver said Order to its destination.

Clerk of the Court

Date: _____, 20__

_____, 20__

(counsel name and address)

(counsel name and address)

RE: (style of case)
_____ County _____ Court No. _____

Dear Counsel:

In anticipation of the jury trial set for _____, 20____, we are beginning to prepare the initial draft of jury instructions. To the extent there are special jury charges or specific requests from the Tennessee Pattern Jury Instructions please forward those to our office by _____, 20___. I would like to have my initial draft of jury instructions distributed prior to the scheduled trial.

Should you have any questions please do not hesitate to call.

Sincerely,

By: _____, Judge

____/____

Confirming of Pre-Trial Conference And Conference

1. Confirming pre-trial conference.

- a. Assistant confirms pre-trial conference two (2) weeks before trial.**

2. Pre-trial conference.

- a. Inquire as to potential for settlement so as to provide notice to counsel of any back-up cases.**
- b. Instruct attorneys to not reveal settlement offers which have been made.**
- c. Discuss Motions in Limine.**

3. Jury selection process.

a. Twelve (12) jurors with an alternate.

b. Twelve (12) jurors plus alternate(s) with the selection process.

c. Use of the jury box versus audience seating.

4. Limitations on voir dire or argument.

5. Confirm jury challenges.

a. Civil trial.

OUTLINE FOR CIVIL JURY TRIALS

Tennessee Rules of Civil Procedure 47-51

I. Welcome to all jurors.

A. Description of Case. Include date of incident, including name of Plaintiff(s) and Defendant(s); include a brief description of incident.

II. Administer oath.

Do you solemnly swear or affirm that you will well and truly answer such questions as may be asked you concerning your qualifications as juror, so help you God?

III. Briefly identify the parties and their counsel.

A. Parties: Plaintiff(s) and Defendant(s); prudent to also list or identify known witnesses to be called.

B. Identify counsel – may allow counsel to introduce themselves.

C. Introduce Court personnel, including Clerk, security and bailiff.

IV. Ask all prospective jurors regarding qualifications.

A. All persons must be eighteen (18) years of age, a citizen of the United States, a resident of the State of Tennessee, and of the county in which he or she may be summoned for a period of twelve (12) months next preceding the date of the summons. See Tenn. Code Ann., Section 22-1-101.

B. Insure that jurors have not been summoned to serve during a jury service term within twenty-four (24) months following the last date of jury service. See Tenn. Code Ann., Section 22-2-314.

- C. Insure that no juror is related to any party within the sixth degree. See Tenn. Code Ann., Section 22-1-104.**
- D. Insure that no juror has been convicted of a felony and is not presently under indictment or being prosecuted for any criminal offense.**
- E. Explain expected number of days for trial.**
- F. Explain trial day: 9:00 a.m. commencement; 10:30 a.m. break; 12 noon lunch break; reconvene at 1:00 p.m.; 2:30 p.m. afternoon break; work as late as jury wishes.**

G. Explain Judges and lawyers work during many breaks.

H. Explain use of technology, computers, iPads and telephones as research tools and same contain Rules of Evidence, case law, and other information that may be read and referenced during the trial.

V. Voir Dire and Jury Selection.

A. Begin selection of jury prior to voir dire.

B. Move all jurors to one (1) side of the Courtroom.

C. Begin selecting jurors, individually reading juror name, panel number and juror number.

D. Allow voir dire by counsel for Plaintiff(s).

E. Allow voir dire by counsel for Defendant(s).

F. Accept jury challenges.

1. Four (4) for each party Plaintiff.

2. Four (4) for each party Defendant.

See Tenn. Code Ann., Section 22-3-104, 105.

3. Additional jurors: remember to give one (1) additional challenge for each additional alternate juror.

Tennessee Rule of Civil Procedure 47.02. “If one (1) or more additional jurors are called, each party is entitled to one (1) preemptory challenge for each such additional juror, up to the maximum provided by law. Such additional preemptory challenge may be used against any regular or additional juror”

G. Administer second oath.

Oath to trial jury and alternates:

Do you solemnly swear or affirm that you will well and truly try the issues joined before you between the Plaintiff(s), _____, and the Defendant(s), _____, and a true verdict render, according to the law and the evidence, so help you God?

H. Oath to security guards.

Do you solemnly swear or affirm that you will take this jury about to be committed to your charge, that you will keep them together, separate and apart from all other persons, and that you will not permit them to communicate with anyone, or anyone to communicate with them and that you will not communicate with anyone yourself in their presence or hearing in regard to this case in any manner whatsoever, that you will return them into court according to law, so help you God?

VI. Rule of Sequestration and Instructions to Witnesses.

VII. Reading of initial jury instructions.

VIII. Opening statements.

A. Opening statement by counsel for Plaintiff(s).

B. Opening statement by counsel for Defendant(s).

IX. Trial.

A. Plaintiff's case in chief.

1. Direct examination.

2. Cross-examination.

3. Re-direct examination

4. Re-cross-examination.

If jury out, as needed, provide following admonition:

Members of the jury, we have a matter we need to take up outside your presence. We will now be taking a short break and we will send you to the jury room. Please do not discuss this case among yourselves or with anyone else during the break. Do not attempt to conduct any type of independent investigation which would include accessing any tools of technology to look up any information about this case.

B. Plaintiff(s)' rest; At the close of Plaintiff(s)' proof, Defendant(s) may move for a directed verdict under Rule 50. Court shall reserve ruling until all parties alleging fault against any other party have presented their respective proof in chief. See Tennessee Rule of Civil Procedure Rule 50.

C. Defendant proceeds with case in chief.

- 1. Direct examination of each witness.**
- 2. Cross-examination.**
- 3. Re-direct examination.**
- 4. Re-cross-examination.**

D. Allow Plaintiff(s)' rebuttal and Defendant(s)' surrebutal.

E. Post-proof pre-argument procedure.

F. After close of all proof.

- 1. Accept arguments relative to any Motions for a directed verdict on any issue.**

G. Conduct charge conference; jury instructions should have previously been distributed to all counsel; after charge conference place on the record any objections that are made by counsel and include rulings.

1. Allow jury to retire to jury room with the following instruction:

Ladies and Gentlemen of the jury, you have heard all of the proof in this case and we are now going to take a short break as required by law to allow me to go over all of the jury instructions with the attorneys. I remind you of my previous admonitions. While the proof in this matter is closed do not discuss this case among yourselves or with anyone else during the break. Do not attempt to look up any information about this case using any tool of technology.

H. Closing arguments.

- 1. Plaintiff(s)' closing argument.**
- 2. Defendant(s)' closing argument.**
- 3. Plaintiff(s)' rebuttal closing argument.**

I. Read concluding instructions, which include the following:

Ladies and gentlemen of the jury, if a question arises during deliberations and you need further instructions, please print your questions on a sheet of paper and give it to the Court officer, but do not discuss it with him or her. I will then read your question and I may call you back to the Courtroom to try and help you. Please understand that I can only answer questions about the law and not the facts.

J. Dismiss alternate juror(s); may be prudent to simply relocate them into a separate area from all other jurors.

K. Jury questions: If jury asks questions, read question aloud on the record in the presence of counsel; allow colloquy and input from counsel relative to addressing question; make written question a part of record.

L. Receipt of verdict.

- 1. Jury returns to jury Courtroom.**
- 2. Judge reads verdict to insure correctness.**
- 3. If correct, return jury verdict form to foreperson for purpose of reading.**
- 4. Ask for identity of jury foreperson.**
- 5. Ask if jury has reached a verdict in the case.**
- 6. Read verdict**

- 7. Poll jury including asking each to signify if this is the verdict by raising their hand.**
- 8. Mark jury form as numbered exhibit marking “court copy”.**
- 9. Things to remember: if the jury is hung consider re-instructing on Tennessee Pattern Jury Instruction 43.02 (deadlocked jury charge).**

Things to remember:

Each time the jury returns to the Courtroom announce on the record that the jury has returned to the Courtroom and all counsel and the Defendant are present.

Interpreter Oath

Tennessee Supreme Court Rule 42, Section 4(B)

Do you solemnly swear or affirm that you will interpret accurately, completely and impartially, using your best skill and judgment in accordance with the standards prescribed by law and the Rules of Ethics for Spoken Foreign Language interpreters in Tennessee Courts, that you will follow all official guidelines established by this court for legal interpreting or translating, and discharge all of the solemn duties and obligations of legal interpretation and translation?

**PREPARATION
FOR AND TRYING
A CRIMINAL JURY TRIAL**

IN THE CIRCUIT COURT FOR ____ COUNTY, TENNESSEE
AT _____

STATE OF TENNESSEE)

VERSUS)

, DEFENDANT)

) NO.

ARRAIGNMENT - SCHEDULING ORDER

This case is before the Court on arraignment of the Defendant. After being informed of the substance of the indictment and waiving a formal reading, a plea of not guilty was entered. The Defendant and/or Defendant's counsel of record acknowledged receipt of copies of the indictment(s) in the captioned matter and this Order. The parties are now bound to the following schedule.

1. **Discovery requests date:** _____. If the State does not voluntarily deliver to the Defendant or defense counsel a complete discovery package at arraignment, Defendant's request for discovery must be served upon the District Attorney General no later than fifteen (15) days following arraignment, and the District Attorney General shall respond within ten (10) days thereafter.

2. **Pre-Trial Motions:** Pre-trial Motions shall be filed and served upon counsel no later than five (5) business days prior to the criminal Motion date, which is established as follows:

3. **Criminal Motion day: Misdemeanor, E, D and C Felonies:** _____, 20__ ; **or A and B Felonies:** _____, 20__. All Motions pending in this case will be disposed of on this date unless special arrangements are made earlier with the Court for another date.

4. **Status Conference:** If on the scheduled criminal Motion day as set forth above there are no Motions to be heard, or if the Court announces a ruling on any Motions on said day, the Court will seek to confirm with the prosecuting attorney that a written offer has been submitted in said case and defense counsel will acknowledge receipt of same. Defense counsel will be asked to acknowledge receipt of same.

5. **Settlement Deadline Date:** The following settlement dates and plea deadlines are hereby established. **Misdemeanors and E, D, and C Felonies:** _____, 20__ ; **Public Defender - _____, 20__ ; Private Bar - _____, 20__ ; A and B Felonies:** _____, 20__ ; **Public Defender - _____, 20__ ; Private Bar - _____, 20__**. Any case not settled by agreement by the above established date will be set for trial as soon thereafter as possible. After the case is docketed for trial, a negotiated plea may be refused by the Court, with the case being resolved by trial or by a plea of guilty to the indictment. In the latter event the Court will not be bound to accept any recommendation with regard to sentencing. The Defendant shall personally appear in Court on any established settlement date as set forth above.

6. **Trial Date:** A trial date of _____ is assigned.

NOTICE TO COUNSEL & DEFENDANTS: Unless excused by Court Order the Defendant shall specifically appear in open Court on the Motion day, status conference day and the settlement deadline day.

DATED this ____ day of _____, 20__.

_____, CIRCUIT JUDGE

DOB: _____

_____, Attorney for State

SS #: _____

Place of Birth: _____

_____, Attorney for Defendant

Reg. Voter: _____ Race: _____

_____, Defendant

If yes, County of Registration: _____

_____, 20__

(counsel name and address)

(counsel name and address)

RE: State of Tennessee v _____
_____ County _____ Court No. ____

Dear Counsel:

In anticipation of the jury trial set for _____, 20__, we are beginning to prepare the initial draft of jury instructions. To the extent there are special jury charges or specific requests from the Tennessee Pattern Jury Instructions please forward those to our office by _____, 20__. Please also provide any lesser included instructions which you think may be applicable. I would like to have my initial draft of jury instructions distributed prior to the scheduled trial.

Should you have any questions please do not hesitate to call.

Sincerely,

By:

_____, Judge

_____/____

Confirming of Pre-Trial Conference And Conference

1. Confirming pre-trial conference.

- a. Assistant confirms pre-trial conference two (2) weeks before trial.

2. Pre-trial conference.

- a. Inquire as to potential for settlement so as to provide notice to counsel of any back-up cases.
- b. Instruct attorneys to not reveal settlement offers which have been made.
- c. Discuss Motions in Limine.

3. Jury selection process.

a. Twelve (12) jurors with an alternate.

b. Twelve (12) jurors plus alternate(s) with the selection process.

c. Use of the jury box versus audience seating.

4. Limitations on voir dire or argument.

5. Confirm jury challenges.

a. Criminal trial.

i. Felony offenses.

ii. Misdemeanors.

OUTLINE FOR CRIMINAL JURY TRIALS

Tennessee Rules of Criminal Procedure Rule 24

I. Welcome to all jurors.

A. Description of Case. Include date of offense, name of Defendant(s) and alleged victim or victims and area where offense occurred.

II. Administer initial oath.

Do you solemnly swear or affirm that you will well and truly answer such questions as may be asked you concerning your qualifications as juror, so help you God?

III. Briefly identify the parties and their counsel.

A. Parties: Defendant(s) and victims; prudent to also list or identify known witnesses to be called.

B. Identify counsel – may allow counsel to introduce themselves.

C. Introduce Court personnel, including Clerk, security and bailiff.

IV. Ask all prospective jurors regarding qualifications.

A. All persons must be eighteen (18) years of age, a citizen of the United States, a resident of the State of Tennessee, and of the county in which he or she may be summoned for a period of twelve (12) months next preceding the date of the summons. See Tenn. Code Ann., Section 22-1-101.

- B. Insure that jurors have not been summoned to serve during a jury service term within twenty-four (24) months following the last date of jury service. See Tenn. Code Ann., Section 22-2-314.**
- C. Insure that no juror is related to any party within the sixth degree. See Tenn. Code Ann., Section 22-1-104.**
- D. Insure that no juror has been convicted of a felony and is not presently under indictment or being prosecuted for any criminal offense.**

- E. Explain anticipated number of days which it will take to try the case, and ask all jurors if they can remain for all days of trial.**
- F. Explain trial day: 9:00 a.m. commencement; 10:30 a.m. break; 12 noon lunch break; reconvene at 1:00 p.m.; 2:30 p.m. afternoon break; work as late as jury wishes.**
- G. Explain Judges and lawyers work during many breaks.**

H. Explain use of technology, computers, iPads and telephones as research tools and same contain Rules of Evidence, case law, indictments and other information that may be read and referenced during the trial.

V. Voir Dire and Jury Selection.

A. Begin selection process of jurors prior to voir dire.

B. Move all jurors to one (1) side of the Courtroom.

C. Begin selecting jurors, individually reading juror name, panel number and juror number.

D. Allow voir dire by State.

E. Allow voir dire by defense counsel.

F. Accept jury challenges.

- 1. Death penalty cases: fifteen (15) preemptory challenges for each Defendant.**
- 2. Felony offenses: eight (8) preemptory challenges for each Defendant.**
- 3. Misdemeanor offenses: three (3) preemptory challenges for each Defendant.**

4. Additional jurors: remember to give one (1) additional challenge for each additional alternate juror.

Rule 24(e)(4) – additional jurors: for each additional juror selected pursuant to Rule 24(f), each side is entitled to one (1) preemptory challenge for each Defendant. Such additional preemptory challenge may be used against any regular or additional juror.

G. Administer second oath.

Oath to trial jury and alternates:

Do you solemnly swear or affirm that you will well and truly try the issues joined before you between the State of Tennessee and the Defendant(s), _____, and a true verdict render, according to the law and the evidence, so help you God?

H. Oath to security guards.

Do you solemnly swear or affirm that you will take this jury about to be committed to your charge, that you will keep them together, separate and apart from all other persons, and that you will not permit them to communicate with anyone, or anyone to communicate with them and that you will not communicate with anyone yourself in their presence or hearing in regard to this case in any manner whatsoever, that you will return them into court according to law, so help you God?

VI. Rule of Sequestration and Instructions to Witnesses.

VII. Reading of initial jury instructions.

A. Prosecutor reads indictment.

B. Defendant enters plea.

VIII. Opening statements.

A. Opening statement by the State.

B. Opening statement by defense counsel.

IX. Trial.

A. State's case in chief.

- 1. Direct examination.**
- 2. Cross-examination.**
- 3. Re-direct examination.**
- 4. Re-cross-examination.**

If jury out, as needed, provide following admonition:

Members of the jury, we have a matter we need to take up outside your presence. We will now be taking a short break and we will send you to the jury room. Please do not discuss this case among yourselves or with anyone else during the break. Do not attempt to conduct any type of independent investigation which would include accessing any tools of technology to look up any information about this case.

B. State rests; take up any defense Motions under Rule 29 of Tennessee Rules of Criminal Procedure.

- 1. You must rule on Defendant's Motion for judgment of acquittal and decision may not be reserved at the close of the State's proof.**
- 2. Advisable to allow Momon. Prudent to allow momon hearing outside of the presence of the jury regardless of whether the Defendant will or will not take the witness stand.**

C. Defendant(s) proceeds with case in chief.

- 1. Direct examination of each witness.**
- 2. Cross-examination.**
- 3. Re-direct examination.**
- 4. Re-cross-examination.**
- 5. If Motion hearing was not given prior to defense commencing their proof, allow for jury out prior to Defendant testifying. Prudent if Defendant will or will not testify.**

D. Allow surrebuttal and defense surrebuttal proof.

E. Post-proof -- pre-argument procedure.

F. After close of all proof.

- 1. Allow, outside the presence of the jury, Rule 29 Motion at the close of all proof. The decision on Rule 29 Motion made at the close of all proof may be reserved and may be ruled on before the jury returns a verdict, after the jury returns a verdict of guilty, or after the jury is discharged without having returned a verdict.**

G. Conduct charge conference; jury instructions should have previously been distributed to all counsel; after charge conference place on the record any objections that are made by counsel and include rulings.

1. Allow jury to retire to jury room with the following instruction:

Ladies and Gentlemen of the jury, you have heard all of the proof in this case and we are now going to take a short break as required by law to allow me to go over all of the jury instructions with the attorneys. I remind you of my previous admonitions. While the proof in this matter is closed do not discuss this case among yourselves or with anyone else during the break. Do not attempt to look up any information about this case using any tool of technology.

H. Closing arguments.

- 1. State's closing argument.**
- 2. Defense's closing argument.**
- 3. State's rebuttal closing argument.**

I. Read concluding instructions, which include the following:

Ladies and gentlemen of the jury, if a question arises during deliberations and you need further instructions, please print your questions on a sheet of paper and give it to the Court officer, but do not discuss it with him or her. I will then read your question and I may call you back to the Courtroom to try and help you. Please understand that I can only answer questions about the law and not the facts.

- J. Dismiss alternate juror(s); may be prudent to simply relocate them into a separate area from all other jurors.**
- K. Jury questions: if jury asks questions, read question aloud on the record in the presence of counsel; allow colloquy and input from counsel relative to addressing question; make written question a part of record.**

L. Receipt of verdict.

- 1. Jury returns to jury Courtroom.**
- 2. Judge reads verdict to insure correctness.**
- 3. If correct, return jury verdict form to foreperson for purpose of reading.**
- 4. Ask for identity of jury foreperson.**
- 5. Ask if jury has reached a verdict in the case.**
- 6. Read verdict.**
- 7. Poll jury including asking each to signify if this is the verdict by raising their hand.**

- 8. Mark jury form as numbered exhibit marking “court copy”.**
- 9. Things to remember: if the jury is hung consider re-instructing on Tennessee Pattern Jury Instruction 43.02 (deadlocked jury charge); if still hung, use question process in Tennessee Rules of Criminal Procedure Rule 31(d)(2).**

Things to remember:

Each time the jury returns to the Courtroom announce on the record that the jury has returned to the Courtroom and all counsel and the Defendant are present.

Interpreter Oath

Tennessee Supreme Court Rule 42, Section 4(B)

Do you solemnly swear or affirm that you will interpret accurately, completely and impartially, using your best skill and judgment in accordance with the standards prescribed by law and the Rules of Ethics for Spoken Foreign Language interpreters in Tennessee Courts, that you will follow all official guidelines established by this court for legal interpreting or translating, and discharge all of the solemn duties and obligations of legal interpretation and translation?