

GENERAL SESSIONS COURT FOR ROBERTSON COUNTY, TENNESSEE

LOCAL RULES OF PRACTICE

**RULES WHICH APPLY TO BOTH CIVIL & CRIMINAL CASES**

RULE 1.

APPLICABILITY AND SUSPENSION OF RULES

1.01 Applicability

Each rule is applicable in the General Sessions Court for Robertson County, Tennessee.

1.02 Suspension of Rules

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

RULE 2.

APPEARANCE OF COUNSEL

2.01 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 shall be made in one of the following ways:

- (a) A request by counsel, in writing, to the clerk that an appearance be entered.
- (b) A phone call to the clerk stating that attorney is to be listed as “attorney of record” with a follow-up letter to clerk within five (5) days confirming same.
- (c) The filing of pleadings.
- (d) The filing of a formal notice of appearance; or
- (e) Appearance as counsel at any court hearing.

2.02 Tennessee Board of Professional Responsibility Required

All attorneys filing civil suits who are not members of the Robertson County Bar Association or do not have an office in Robertson County, are to list their Board of Professional Responsibility number when warrant issued by General Sessions Clerk or if representing a Defendant upon first appearance in General Sessions Court.

2.03 Withdrawal of Counsel

No attorney may be allowed to withdraw except for good cause and by leave of Court upon Motion. After being granted permission to withdraw, the attorney is to prepare an Order Of Withdrawal with a Certificate Of Service showing a copy of the Order has been forwarded to the Defendant and/or Party. Said Order to be submitted to the General Sessions Court Clerk within fifteen (15) calendar days.

2.04 Conduct and Appearance of Counsel

- (a) During trial, counsel shall not exhibit familiarity with witnesses or opposing counsel and the use of first names for adults shall be avoided.
- (b) At the commencement of a trial of any matter or hearing on any Motion, counsel shall introduce him/herself to the Court.
- (c) Counsel shall stand while examining witnesses, addressing the Court or making objections.
- (d) Counsel who anticipate being late for Court shall promptly notify the appropriate clerk and the opposing party or counsel.
- (e) Counsel to be properly attired with coat and tie.

**RULES WHICH APPLY TO CIVIL CASES**

**RULE 3.**

**FILING AND SERVICE OF PAPERS FOR CIVIL CASES**

3.01 Capacity or Standing to Sue

When a person comes to the Clerk's Office to file a lawsuit they shall disclose to the clerk if they are filing the suit individually, on behalf of another person, a corporation, a LLC or some other entity.

- (a) If the person is trying to file a suit for another individual, their request to be allowed to file shall be denied. The person trying to file the suit is to be informed that only the

individual or an attorney can file the suit.

- (b) If a person, other than an attorney, is filing a suit on behalf of a corporation or LLC there shall be documentation attached with the warrant proving that the person has the capacity or standing to sue. The person filing must provide a copy of the Corporation Charter for a corporation or Articles of Organization for a LLC.
- (c) If the person is filing a suit for a corporation or LLC, the individual filing the suit is to be informed that when the case comes before the court an attorney will have to represent the entity.

### 3.02 Filing Companion or Third Party Civil Cases

Upon the filing of any Civil action which is related to a pending action in General Sessions Court (e.g. cross warrant to third party complaint), the party filing such companion case shall note that the new warrant is a companion case to a pending General Sessions case. All companion or third party cases shall be consolidated for trial with the original action.

### 3.03 Receipt of Civil Summons or Warrant by General Sessions Court Clerk

For all civil cases where the Plaintiff is represented by an attorney and service is by a private process server, the original of the Summons or Warrant shall be received in the General Sessions Court Clerk's office fifteen (15) calendar days prior to the scheduled court date. The Warrant shall show date of service and name of process server. The name, address and phone number of the process server is to be printed or typed below the signature of process server.

### 3.04 Improper Service or Improper Return of Service

Cases that have improper service or an improper return of service may be dismissed sue sponte by the court.

### 3.05 Civil Summons or Warrants-Return

Return of all Civil Summons or Warrants shall comply with Rule 4.03 (1) of the Tennessee Rules of Civil Procedure.

3.06 Filing of Briefs of Memoranda of Law

All post hearing briefs or Memoranda Of Law shall be filed with the Judge and a copy contemporaneously mailed to the opposing counsel or party. The opposing counsel shall have fifteen (15) calendar days to file a response.

RULE 4.  
SETTING AND CONTINUANCES OF CIVIL CASES

4.01 Resetting of Cases

- (a) If a defendant appears in court at the time and date the defendant's case is set for trial and the case is reset at the plaintiff's request, defendant shall be informed of the new court date by the Judge AND the plaintiff shall not be entitled to take a default judgment against that defendant unless the plaintiff submits to the court a copy of a letter properly mailed to the defendant at least fifteen (15) calendar days prior to the hearing date informing the defendant of the time and date of the hearing.
- (b) The plaintiff shall be presumed to have requested the reset in all cases brought by sworn account unless the court makes a notation on the civil summons that the defendant requested the reset by personally appearing in court.
- (c) In civil actions the Court may liberally grant a continuance on the first setting or on the first setting after an indefinite continuance.

4.02 Resetting of Civil Cases Which Have Been Continued Indefinitely

Cases which have been continued indefinitely shall only be reset for trial and placed on the Court's docket by the Clerk upon the Clerk giving parties a court date and upon agreement of the parties or after notice to the opposing party fifteen (15) calendar days in advance. When resetting such cases by agreement, a letter shall be sent to the Clerk which specifically states that the case is being set by agreement and a copy of the letter shall be forwarded to opposing counsel or the opposing party.

4.03 Multiple Continuances of Civil Cases

After a civil case has been set on the Court's docket three times and has been continued, whether by agreement or for good cause, the case shall be tried or continued indefinitely and taken off the Court's docket and shall be reset on the docket only upon Motion or agreement of the parties in writing.

4.04 Specially Set Cases Civil

- (a) When an attorney or party request that a case be set on a docket which is not a regular docket or time for type case, attorney or party shall file Motion To Set, which shall be set on Court docket and upon approval by Court the attorney or party shall prepare an Order to be entered by the Court specially setting case.
- (b) Upon receipt of the Order setting case by the Clerk of Court and having stamped "filed" the Clerk is to provide Judge's secretary a copy of the Order.

RULE 5.  
ATTORNEY FEES

5.01 Fee Determination

Any attorney requesting attorney fees must provide a detailed affidavit of the work performed which is to include the factors listed in Rule 8 of the Tennessee Supreme Court Rules of Professional Responsibility. Sec. Rule 1.5: Fees.

RULE 6.  
DETAINER ACTION & WRITS OF POSSESSION

6.01 Capacity or Standing To Take Out An Unlawful Detainer Warrant in Foreclosure- Related Evictions

At the time of filing the new owner or successor in interest shall attach written proof setting out the chain of ownership in interest of the property when filing for an unlawful detainer warrant. If defendant(s) (tenants) are residing in the foreclosed property, the Plaintiff shall attach a copy of the 90 day notice sent to the defendant(s) informing bona fide tenants of their right to remain

in the home for 90 days or until their lease expires, whichever is longer as required by federal law. [Protecting Tenants At Foreclosure Act, Pub. L. No. 111-22, §§ 701-704 (2009)]. The case shall be dismissed if the Plaintiff fails to comply with these local rules or if the Plaintiff has given an improper notice or has filed the detainer warrant prematurely before notice was given or before the time for the tenant to vacate the property has expired.

#### 6.02 Detainer Action

A landlord who is granted possession of a property is required to seek a Writ Of Possession within thirty (30) calendar days of the date of entry of the judgment.

#### 6.03 Immediate Writs Of Possession

Litigants seeking immediate possession of personal property under T.C.A. §29-30-106 must:

- (a) include with warrant an affidavit setting out the specific details & facts justifying extraordinary relief
- (b) state in affidavit the value of the property
- (c) comply with the five (5) day notice provision as set out in TCA § 25-30-106, Section (1)
  - (A)
- (d) post a bond in an amount fixed by the court which shall not be less than the value of the property

### RULE 7. SUIT ON SWORN ACCOUNT

#### 7.01 Required Language

The language “Sworn Account” shall be set out on the face of the warrant.

#### 7.02 Affidavit Requirements

- (a) All affidavits submitted to support a sworn account shall include the date and amount of the last payment made toward the subject debt. If the plaintiff fails to include this information in the affidavit, the case shall be dismissed without prejudice.

- (b) In cases filed on sworn account, the plaintiff shall include in the supporting affidavit a statement describing the manner in which the plaintiff acquired the underlying debt if the plaintiff is not the original creditor. Such plaintiffs shall attach to their affidavit a copy of documentation showing all transfers of ownership of the debt from the original creditor to the plaintiff. If the plaintiff fails to submit this documentation, the case shall be dismissed without prejudice.

Sworn denials may be written or oral. TCA § 24-5-107(b)

7.03 Limitation on Judgment on Debt Prior to Plaintiff's Acquisition

Suit to collect a debt in which:

- (a) The plaintiff is assignee of the original creditor and
- (b) The defendant makes a sworn denial (orally or in writing) and
- (c) The plaintiff offers a business record as evidence of the debt under Tennessee Rule of Evidence 803(6) and
- (d) The record shows a "beginning balance" or the plaintiff otherwise seeks to admit that record as evidence that the defendant owes the plaintiff an amount that accrued prior to the plaintiff's acquisition of ownership of the debt,

this court shall not award judgment to the plaintiff for any part of the debt accruing prior to the plaintiff's acquisition of ownership of the debt (including principal, interest, or fees) except to the extent that the plaintiff submits evidence admissible under Rule 803(6) to prove the amount due prior to plaintiff's acquisition of the debt.

7.04 Suit Where Affidavit Supporting a Sworn Account Refers to Attached Documents:

If an affidavit supporting a sworn account refers to documents that are attached to the affidavit, a copy of these documents shall be filed with the court with the affidavit and shall be included in the process served on the defendant(s). If the plaintiff fails to submit this documentation, the case shall be dismissed without prejudice.

RULE 8.  
SUIT ON CREDIT CARD DEBT

8.01 Copy of All Documents To Be Attached

If a party submits a business record that purports to be a contract between the parties and that record incorporates by reference one or more separate documents containing additional terms of the parties' agreement, the party submitting the record shall also provide the court and all other parties a copy of all documents containing additional terms unless the document(s) referenced in the record being submitted is identified in the record & is a document available to the general public (*i.e. SBCCI, Southern Building Code*).

RULE 9.  
SLOW PAY MOTIONS

9.01 Income and Expense Statement

The moving party on a Slow Pay Motion is to provide to the Court a sworn Income and Expense Statement on forms provided by the Clerk.

9.02 Slow Pay Motions Dismissal

When the moving party on a Slow Pay Motion fails to answer at the first call of the docket, such motion shall be subject to dismissal at the expiration of twenty minutes after the commencement of the docket call.

RULE 10.  
CALL OF DOCKET AND ENTRY OF JUDGEMENTS IN CIVIL CASES

10.01 Docket Call

- (a) Plaintiff represented by attorney: When the clerk begins calling the attorney's docket the attorney is to come forward. After the clerk completes the call of all cases the attorney for Plaintiff will be handed their warrants by the court officer. The attorney is to write up the Agreed Judgments and Default Judgements then return the warrants to the clerk. Agreed Judgments are to include the signature of each defendant on the warrant.



(b) The warrants of Self Represented Plaintiffs shall be retained by the clerk. At the end of the call of the docket the clerk will assist Self Represented Plaintiffs in writing up their Judgements.

(c) Warrants for trial are to be returned to clerk.

10.02 Settlement Discussions

At the end of the docket call, all parties and attorneys shall be allowed a brief opportunity to discuss possible settlement of their case before trial. The Court shall advise those present that a trial will be granted to them if the parties or the attorneys are not able to agree on a settlement.

10.03 Post Judgment Interest Above Statutory Rate

In all matters when the Plaintiff is requesting post judgment interest above the statutory rate of ten percent (10%), the Plaintiff shall provide the Court a copy of the contract prior to entry of judgment which sets out the rate of interest being requested.

**RULES WHICH APPLY TO CRIMINAL CASES**

**RULE 11.  
CONDUCT AND APPEARANCE OF OFFICERS**

11.01 Familiarity Not To Be Shown

During trial, officers shall not exhibit familiarity with witnesses, attorneys, or defendants and the use of first names for adults shall be avoided.

11.02 Proper Attire

Officers are to be properly attired in uniform, coat and tie, dress, or blouse & slacks upon entry into courtroom on scheduled court day. This dress attire is not required where officer is entering courtroom to have a citation or warrant executed.

11.03 Use Of Tobacco Or Gum

Officers are not to use tobacco or gum while present in courtroom.

11.04 Possession Of Weapon in Court Building

- (a) While on duty or serving in an official capacity, Officers are to enter Court building with weapon only if in uniform or with visible identification on upper exterior of coat, blouse or dress. Identification on belt is not acceptable.
- (b) While off duty and/or not serving in an official capacity, Officers shall not enter Court building with a weapon on their person when appearing in Court as a Defendant, Witness for a Defendant or Victim, and/or friend of Defendant or Victim.

RULE 12  
SETTING & CONTINUANCES OF CRIMINAL CASES

12.01 Setting of Criminal Cases by Officers

Each officer of the Tennessee Highway Patrol, Tennessee Wildlife Resource Agency and each officer of a local law enforcement agency is to have one (1) regularly scheduled monthly court date for which the officer is to be present. Officers are to set their cases per this schedule as approved by Court. Exception to this rule are those cases to be set by Robertson County Sheriff Department officers and Springfield Police Department officers per Memo dated September 29, 2006.

12.02 Criminal Cases Set in Error By Officer

When an officer sets an incorrect court date or incorrect court time the Clerk of the Court shall forward a copy of the Citation/Warrant to the Judge's Office. A letter shall be sent by the Judge to the Department Head of the law enforcement agency explaining error. Should the error not be corrected in the time allowed in the letter the charge shall be dismissed.

12.03 Officers Obligation For Docket Call of Criminal Cases

Where an officer is appearing in Court for their regularly scheduled Court date officer is to remain at courtroom until all her/his cases are disposed of or officer is granted leave of Court to be excused.

12.04 Officer to Notify General Sessions Criminal Clerk of Training and/or Vacation

It is the responsibility of each officer to notify a General Sessions Criminal Clerk of scheduled training and/or vacation date which conflicts with a regular scheduled court date a minimum of thirty (30) days prior to training and/or vacation date.

12.05 Agency To Contact General Sessions Judge's Secretary As To Scheduling Change

It is the responsibility of each law enforcement agency operating in Robertson County to contact the Judge's Secretary when requesting a change as to an officer's regularly scheduled Court date.  
Phone 384-4684

12.06 Agency To Notify General Sessions Judge's Secretary of Newly Employed Officers

It is the responsibility of each law enforcement agency operating in Robertson County to contact the Judge's secretary regarding each newly employed officer. The Judge's secretary will provide a schedule of court dates for the officer to utilize. A newly employed officer **shall not** set any cases until the Judge's secretary has provided a schedule.

RULE 13.

ISSUANCE OF SUBPOENAS IN CRIMINAL CASES

13.01 Subpoena of Law Enforcement Officer

Law enforcement officers who have a regularly scheduled monthly Court date will not be subpoenaed for cases set on this date.

Where a case is specially set for date other than for regularly scheduled monthly Court date a subpoena is to be issued to officer.

Subpoenas shall not be faxed to law enforcement agencies operating in Robertson County other than the Tennessee Highway Patrol.

The officer to whom the subpoena is addressed shall personally enter his/her signature acknowledging service.

RULE 14.  
REQUIREMENTS BEFORE PRETRIAL DIVERSION WILL BE GRANTED

14.01 Application For Certification Of Eligibility For Diversion

Certification Of Eligibility For Diversion approved by TBI to be provided to court for review.

14.02 Cost To Be Paid In Advance

- (a) All court cost and cost for court appointed attorney
- (b) All restitution

14.03 Program Verification

Written proof that any required program(s) has/have been completed.

14.04 Public Service

Written proof that any required public service work has been completed.

RULE 15.  
EXPUNGEMENT OF CRIMINAL CASES

15.01 Expungement of Dismissed Criminal Cases

All Orders For The Expungement of Criminal Offense must be accompanied by a copy of the Order of Dismissal or with the Warrant or Citation showing dismissal of the charges when submitting the Order For The Expungement Of Criminal Offense to the Judge for approval.

15.02 Expungement of Retired Criminal Cases

It is the responsibility of the Defendant or attorney for Defendant to have a Retired case Dismissed prior to the filing of an Order For The Expungement of Criminal Offense.

15.03 Certification of Compliance and/or Payment

All Order For The Expungement Of Criminal Offense is to have attached a CERTIFICATION OF COMPLIANCE AND/OR PAYMENT confirming that Defendant has complied with condition required by the court. The CERTIFICATION is to set out by item the amount paid as to costs, fines, restitution, contributions and all other requirements placed upon Defendant.