

LOCAL RULES
OF
CHANCERY COURT
THIRTEENTH JUDICIAL
DISTRICT

EFFECTIVE DATE: DECEMBER 1, 2010

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LOCAL RULES OF PRACTICE

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LOCAL RULES OF CHANCERY COURT THIRTEENTH JUDICIAL DISTRICT

Pursuant to the inherent and statutory power of the Court and in compliance with Rule 18 of the Tennessee Supreme Court, the following local rules of practice are hereby promulgated and adopted to be effective from and after September 1, 2010.

RULE 1

RULES OF COURT: APPLICABILITY, SUSPENSION AND DEFINITIONS

1.01 Former Rules Abrogated

All former rules of local practice except as re-adopted herein are abrogated from and after the effective date hereof.

1.02 Applicability

Each rule is applicable in all the counties of the Chancery Court of the Thirteenth Judicial District which includes the counties of Clay, Cumberland, Dekalb, Overton, Pickett, Putnam and White. Each rule is applicable in all types of cases unless otherwise indicated by a particular rule. When a rule's applicability is designated to apply to a particular type of case, it is applicable to all cases of that type.

1.03 Suspension of Rules

Whenever the Court determines that justice requires such, it may suspend any of these rules except that all the local rules of practice shall be consistent with the statutory law, the Rules of the Supreme Court and the Tennessee Rules of Civil Procedure. Any action taken by the Court, or order entered by the Court not in compliance with the provisions of these rules or any part thereof shall be deemed and treated as a suspension of any such provision or provisions thereof.

1.04 Definitions

The following definitions apply to terms used in these rules:

Clerk: The Clerk and Master of the Chancery Court or his or her designees.

T.R.C.P.: Tennessee Rules of Civil Procedure

Time: Time is computed as provided by Rule 6 of the Tennessee Rules of Civil Procedure

1.05 Citation

These rules may be cited as “Local Rules of Chancery Practice” (L.R.C.P.)

RULE 2
COURT SESSIONS

2.01 Regular Sessions of Court

Regular sessions of Court will open at 9:00 a.m. unless the court directs otherwise. Chambers hearings shall be held each Friday at Cookeville in the Chancery Courtroom of the Putnam County Justice Center commencing at 10:00 a.m. unless the Court directs otherwise and at such other times and places as the Court may designate. Chambers dates and locations will be posted on the Putnam County Clerk and Master’s website.

2.02 Regular Sessions County Schedules

The regular sessions of the Court in each of its seven counties begin as follows:

Clay County - Third (3rd) Monday in April and October

Cumberland County - Fourth (4th) Monday in April and October

Dekalb County - Second (2nd) Monday in May and Third (3rd) Monday in November

Overton County - Tuesday following the Third (3rd) Monday in January and the Third (3rd) Monday in July

Pickett County - Third (3rd) Monday in March and September

Putnam County - First (1st) Monday in June and December

White County - Tuesday following the last Monday in May and the first (1st) Monday in November

2.03 Special Sessions

Special sessions of the Court may be held in any county as and when the need arises subject to availability on the Court’s trial calendar.

2.04 Prompt Attendance

All attorneys, parties, witnesses and jurors shall be prompt at all sessions.

RULE 3

APPEARANCE AND CONDUCT OF COUNSEL

3.01 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 to the Clerk that an appearance be entered;
- (b) The filing of pleadings;
- (c) The filing of a formal notice of appearance.

3.02 Withdrawal of Counsel

No attorney may be allowed to withdraw except for good cause and by leave of Court upon motion after notice to the party; provided, however, that notice to the party of the withdrawal motion shall not be required if the party being relieved of counsel or the substituted counsel of such party shall sign an agreed order of withdrawal approved by the Court.

3.03 No Appearance Entered; Copies of Pleadings

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

3.04 Conduct of Counsel

(a) Bench conferences should be requested only when absolutely necessary in aid of a fair trial. Counsel may never lean upon the bench nor appear to engage the Court in conversation in a confidential manner.

(b) Counsel 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, and should respectfully await the completion of the Court's statement or opinion before undertaking to point out objectionable matters. When objection is made to a question asked, 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

Court.

(c) Unless physically impaired, attorneys shall stand while examining witnesses or while addressing the jury or the Court.

3.05 Contacting Judge

Neither counsel nor a party to a pending action shall contact the Judge before whom the matter is pending unless there is an emergency, except by letter or orally with other counsel of record present. A copy of all such letters shall be sent to all counsel of record and a copy sent to the Clerk.

RULE 4
COURT FILES

All papers and records of the Court shall be in the custody of the Clerk. Files may not be withdrawn by any person at any time except with the consent of the Clerk. Withdrawn files shall not be retained for more than seven (7) days and the party so withdrawing the same shall be responsible for preserving its contents and returning the same to the Clerk. The Clerk may recall such files at any time and, in all cases, the same shall be in the hands of the Clerk on the hour and date any action is scheduled thereon.

Copies of the contents of files shall be furnished to counsel and/or parties by the Clerk at a reasonable cost. However, documents that have been sealed or which are required by law to be sealed may not be opened or furnished without consent of the Court.

RULE 5
FACSIMILE FILING

5.01 Pleadings Which May Be filed by Facsimile

Facsimile filing is allowed to every extent allowed by the Rules of the Supreme Court and the Tennessee Rules of Civil Procedure.

5.02 Transmission Information

Each of the respective Clerk's offices shall maintain a facsimile machine. These machines may be contacted as follows:

Clay County Clerk and Master	(931) 243-3157
Cumberland County Clerk and Master	(931) 484-5374
Dekalb County Clerk and Master	(615) 597-3441
Overton County Clerk and Master	(931) 823-7631
Pickett County Clerk and Master	(931) 864-7885
Putnam County Clerk and Master	(931) 526-1914
White County Clerk and Master	(931) 836-2124

Facsimile machines will be operational during regular office hours on judicial days. Facsimile transmissions received after 4:00 p.m. will be considered to be filed the following business day.

5.03 Cover Sheets and User Fees

Each facsimile transmission must be preceded by a cover page bearing the signature of counsel guaranteeing prompt payment of the user fees. For each facsimile transmitted to the Court, there is a charge which is established by Supreme Court Rule. Counsel shall create their own bills for such services where they require such for their record keeping, and shall transmit payment within five (5) Judicial Days, or such other time which may be provided by Supreme Court Rule.

RULE 6

JURY DEMAND

6.01 Procedure

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

6.02 Notification of Jury Demand

When a case is to be tried by a jury, that fact shall be called to the attention of the Clerk or Court when the case is being set for trial.

6.03 Withdrawal of Jury Demand

Once a demand for jury is made, the same cannot be withdrawn without the consent of the parties or their counsel and the Court

RULE 7

MOTIONS

7.01 Time for Filing Pre-Trial Motions

Pre-trial motions which can be dispositive of one or more substantive issues in a case must be filed and disposed of before the case is set for trial.

7.02 Time for filing Responses to Motions

Responses to motions, including counter-affidavits, depositions, briefs or any other matters being presented in opposition to motions must be filed and served no later than 24 hours in advance of the hearing of the motion.

7.03 Briefs on Motions and Responses

Every motion which may require the resolution of an issue of law and every motion in which legal authority is relied upon, shall be accompanied by a memorandum of law and facts in support thereof. Copies of motions and supporting brief shall be furnished to the Chancellor's office no less than twenty-four (24) hours in advance of the hearing. Reply briefs must be submitted and furnished to opposing counsel no later than twenty-four (24) hours in advance of the hearing of the motion.

7.04 Setting and Hearing of Motions

Motions from any county in the district may be set for hearing: (1) by agreement of counsel; (2) on notice of either party; or (3) by the Court with notice to counsel and to parties without counsel. Motions from any county may be set on any Chambers day commencing at 10:00 a.m. Motions may be heard at 9:00 a.m. on any regular trial day on which the Court is sitting in the county in which the motion is pending unless that day is a jury trial day or unless the Court and/or the clerk has determined that the docket is full on a given day.

Any motion which is reasonably anticipated to take more than thirty (30) minutes shall not be set without first obtaining approval of the Court. Contested motions requiring

witness testimony shall not be scheduled on Friday Chambers without prior Court approval.

7.05 Striking or Postponement of Motions

After a motion has been docketed, no party may strike or postpone the same without the agreement of all parties. In the absence of an agreement, the Court may order postponement of a hearing upon a motion. If a motion is to be stricken or postponed by agreement, counsel shall notify the Clerk as soon as practicable. If any party strikes or postpones a motion without agreement of all parties of record or without leave of Court, the Court may tax as costs reasonable fees and expenses to any party who appeared at the scheduled hearing.

7.06 Agreed Orders

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

7.07 Waiver of Oral Argument

Oral argument may be waived by agreement of the parties.

7.08 Failure to Appear at a Motion Hearing; Late Appearance

If any party does not appear at a scheduled hearing on a motion, the Court may strike or adjudicate the motion. Counsel who will be late for a motion hearing shall notify the Clerk in advance of the hearing or have an announcement to that effect made at the call of the docket.

7.09 Special Setting of Motions

Where special circumstances warrant, motions may be specially set at times and places other than the times and places herein designated.

RULE 8

GUARDIAN AD LITEMS

8.01 Appointment

(a) Guardian ad litem shall be appointed by the Court and a guardian ad litem will be appointed if justice so requires or if such appointment otherwise is required by statute or T.R.C.P. The Clerks of the Court in the respective counties shall maintain

a roster of the active practicing attorneys in their county from which guardian ad litem may be appointed and shall make a notation of the date when a particular attorney has been so appointed in a cause.

(b) It shall not be permissible for the plaintiff or the other parties to the action or their representative to nominate a guardian ad litem; provided, however, if there are peculiar reasons why a particular attorney should be appointed as guardian ad litem in a case it shall not be improper for such reasons to be made known to and considered by the Court prior to making such appointment.

8.02 Disqualification as Guardian Ad Litem

No attorney shall be appointed as guardian ad litem if he or she has a pecuniary interest in the outcome of the cause; if he or she is a member of the firm, a partner or associate of any of the other attorneys involved in the cause; or if any other facts exist which would in any way interfere with said guardian ad litem fully representing the best interest of the person for whom such appointment is made.

8.03 Compensation of Guardian Ad Litem

At the conclusion of the matter, the Court will hear proof in the fixing of the fee for the guardian ad litem or may require said guardian ad litem to file a sworn statement detailing the nature and extent of his or her services including the amount of time spent, what he or she considers to be a reasonable fee for such services and other facts which might assist the Court in fixing a fee for such services.

8.04 Fees of Guardian Ad Litem

Fees for a guardian ad litem shall be treated and taxed as costs in the cause.

RULE 9

COURT REPORTERS

It is the responsibility of litigants and/or their attorneys to arrange for court reporters in all cases if they want the case reported. Proceedings may not be postponed or delayed because of a court reporter's absence or tardiness unless the Court finds the moving party to be free of fault for such absence or tardiness and that failure to grant such a continuance would be prejudicial to one or more parties.

RULE 10
PRE-TRIAL PROCEEDINGS AND PROCEDURES

10.01 Mediation

The parties may agree or the Court may order mediation in a given case under rules established by the Mediator and Rule 31 of the Supreme Court.

10.02 Settlement Conferences

When it reasonably appears that it would be beneficial in resolving the cause, the parties may agree to, or the Court may order, a settlement conference to be presided over by a judge from another Court with like jurisdiction. The settlement conference shall be conducted in accordance with the provisions of the order scheduling the settlement conference as entered by the settlement judge.

10.03 Pre-Trial Conference

On motion of a party or on the Court's own motion, the Court may hold a pre-trial conference.

10.04 Interrogatories to Parties

No party shall serve on any other party more than forty (40) single question interrogatories, including sub-parts, without leave of the Court. Any motion seeking permission to serve more than forty (40) interrogatories shall set out the additional interrogatories the party wishes to serve. The motion will be accompanied by a memorandum giving reasons establishing good cause for the service of additional interrogatories. If a party is served with more than forty (40) interrogatories without an order of the Court, he or she shall respond only to the first forty (40) in the manner provided by T.R.C.P.

10.05 Final Disposition

In all contested actions set for final disposition upon the merits:

(a) At least five (5) days prior to a final hearing, copies of all exhibits which are proposed to be offered (other than impeachment exhibits, rebuttal exhibits and depositions taken in the case) shall be furnished to opposing counsel and/or any pro se party. When it is impractical to copy exhibits, the proposed exhibits shall be made available for inspection.

Trial of the cause will not be delayed to allow counsel or parties to inspect or copy such exhibits.

This rule does not restrict or limit the right of a party to discover, copy or inspect exhibits or other matters provided by the Tennessee Rules of Civil Procedure or as may be provided by any pre-trial order of the Court relative to the same.

(b) Depositions to be used as evidence (other than for impeachment) shall be filed with the Clerk and all medical depositions or agreed to medical reports in worker's compensation cases shall be filed at least seven (7) days prior to the hearing date.

(c) At least five (5) days prior to a final hearing, the parties shall exchange a list of all witnesses which the party expects to use at trial. Witnesses not listed may not testify except with permission of the Court. Rebuttal witnesses must be exchanged, the exception being those witnesses whose testimony is not reasonably foreseeable prior to trial or at the time the exchange of witnesses is required.

RULE 11

SETTING CASES FOR TRIAL; CONTINUANCES AND SETTLEMENTS

11.01 Method of Setting

Cases shall be set for trial in one of the following ways:

- (a) By agreement of counsel after consultation with the Court;
- (b) By counsel with consultation with the Clerk if the case is uncontested or is to be heard ex-parte;
- (c) By motion and notice setting out the time and place when and where the motion for setting will be presented to the Court;
- (d) By the court with notice to counsel and to any party not represented by counsel who is not in default;
- (e) At any regular or specially called docket setting as may be held by the Court or by the Clerk, when designated, in a given county of the district. The absence of an attorney from the docket setting will not of itself prevent a case from being set.

11.02 Notice of Docket Setting

Unless the docket setting is held on the first day of the session, the Clerks of the respective courts shall give all attorneys who have cases pending in their Court at least twenty (20) days notice of any docket setting to be held in said county by the Court or by the Clerk. In addition, a schedule of the docket setting for each county will be posted on the Putnam County Clerk and Master's website.

Such notice to attorneys in the county may be given by telephone or by written notice. Notice to out-of-county attorneys shall be sent in writing through the U.S. Mail.

11.03 Notice of Setting

Immediately after a case has been set down for hearing at a docket setting, the Clerk shall send written notice to all attorneys involved in the case who were not present at the setting, stating the time and place when and where the matter will be heard. A copy of the order setting the cause will be deemed sufficient notice of such setting.

If a party is not represented by counsel, such notice of hearing or order setting the cause shall be sent to the party unless a default judgment has been taken against the party.

11.04 Deadline for Trial Preparation

When a party objects to having a case set because trial preparation is not complete, the Court may establish a deadline for completing trial preparation.

11.05 Continuances and Settlements

(a) Contested cases set for hearing on the merits may not be continued by agreement and may be continued only by leave of Court. Cases will not be continued except for good cause, which cause shall be brought to the attention of the Court as soon as practicable before the date of the trial.

(b) Absence of a witness will not be grounds for a continuance unless the witness has been subpoenaed in accordance with the requirements of T.R.C.P..

(c) When a case is set by agreement or set upon motion without objection to having it set, failure to have completed discovery, unavailability of counsel on the trial date, inability to take a deposition, or failure to have completed any other trial preparation will not be grounds for a continuance unless it can be conclusively shown that unusual or

extraordinary events have arisen which necessitates such continuance.

(d) If a case which has been set down for a hearing is settled or if an agreed order is to be entered, counsel shall immediately notify the Clerk of such fact.

(e) A case may not be continued or delayed more than once not exceeding one hundred twenty (120) days to assure the compliance of an installment or partial payment agreement worked out by the parties. Instead, in such cases where a final judgement is not entered thereon, the parties shall submit said agreement to the Court together with an order removing the case from the current docket and providing for the payment of costs. If the terms of the agreement are not complied with, the case may on motion of either party be reinstated on the docket and subsequently set down for hearing. The Court may, on its own motion, with notice to parties or counsel, reinstate a case so removed from the active docket.

If the terms of the agreement are complied with, a final decree of dismissal may on demand of any party, be entered upon the payment of any additional costs which may accrue.

RULE 12

TRIAL CALENDARS

12.01 Daily Calendars

(a) Daily trial calendars of the days the Court is to be in session in a given county of the district shall be prepared by the Clerk of said county.

(b) The Clerk of the county in which Chambers hearings are held and/or the Court shall be notified in advance of all matters to be set on a given Chambers day and the Clerk shall prepare a trial calendar of the matters so set. Failure to notify the Clerk or Court shall not necessarily prevent the matter from being heard, but matters not so placed on the trial calendar may be set at the heel of the calendar.

(c) All ex-parte matters and non-contested matters set on a regular trial day or Chambers day shall, if ready, be heard before the contested matters set on such regular day or Chambers day.

No contested matters except pre-trial motions, post-trial motions, pendente lite matters, show cause and contempt proceedings, and applications and/or petitions for temporary extraordinary relief shall be set at Chambers except with the consent of the Court.

12.02 Cases Not Reached

In the event a case is not reached for hearing on the day it is set, it may be carried over from day to day or until the next available date.

RULE 13

EXHIBITS

13.01 Depositions and Discovery Material

Depositions and discovery material submitted to the Court as evidence which are not read to the Court during the course of the trial shall be made trial exhibits.

13.02 Custody of the Clerk

All trial exhibits shall be accounted for and placed in the custody of the Clerk unless otherwise directed by the Court.

13.03 Disposition of Exhibits

After final determination of any case, the parties shall have thirty (30) days to withdraw exhibits. The Clerk may destroy or dispose of exhibits not so withdrawn.

RULE 14

ORDERS AND JUDGMENTS

14.01 Preparation and Submission of Orders and Judgments

(a) In all judgments by default and orders in uncontested matters, the attorney or party taking a judgment or order shall prepare and lodge such order with the Clerk of the county in which the action is pending to be submitted to the Court for signature, or the same may be presented directly to the Court for signature, all to be done within seven (7) days from the date that such judgment or order is granted.

(b) Unless the Court direct otherwise, in all cases wherein orders or judgments are granted in contested matters, the attorney for the prevailing party will prepare the

order for signature by the Court. If said order is signed by all parties or counsel, the same may be submitted to the Clerk for the Court's signature or may be submitted directly to the Court for signature, all to be done within ten (10) days of the date of the Court's decision.

(c) Orders in contested matters containing the signatures of less than all parties or their attorneys shall be submitted to the Clerk of the county in which the action is filed within ten (10) days from the date of the Court's decision and the same shall not be entered immediately, but will be held by the Clerk for five (5) days. When opposing counsel or party receives a copy of a proposed order, he or she shall notify the Clerk immediately of any objection to the same. If the Clerk receives no objection within the five (5) day period, the order will be submitted to the Court for signature. When there is a disagreement as to the terms of the order, each party may lodge a proposed order with the Clerk of the county.

(d) All orders prepared by counsel and not signed by all parties or their counsel shall be accompanied by a certificate of service by that copies of the order or judgment have been served on all parties or counsel of record.

(e) All orders mailed directly to the Court for signature shall be accompanied by an envelope properly addressed to the Clerk for the County in which the action is filed with sufficient postage affixed thereto to carry it to its destination.

14.02 Court Costs

(a) All final judgments shall provide for taxing of court costs. The Clerk may refuse to enter any final order which fails to provide for taxing of court costs.

(b) Whenever it appears to the Court that a judgment has been satisfied but that court costs have not been paid, the Clerk may apply to the Court for re-taxing of court costs. The Clerk shall notify the parties of such application and the date and time it will be considered by the Court.

14.03 Default Judgment Certificate

(a) All orders granting default judgment on claims involving liquidated amounts may be accompanied by a certificate as follows:

Default Judgment Certificate

Plaintiff, by counsel, certifies that:

1. No papers have been served on plaintiff's counsel by the defendant(s) in default.
2. Defendant(s) were served on _____.
3. The balance due is as follows:

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

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

- (g) If the basis of the claim is a promissory note, the original has been filed. If not, the reason is:

This _____ day of _____, 20__.

ATTORNEY

(b) In the alternative, an affidavit from the plaintiff or plaintiff's properly authorized officer or representative in substantially the above form may be submitted or

plaintiff or plaintiff's properly authorized officer or representative may appear and offer sworn oral testimony in proof of said claim.

14.04 Non-Minute Entry Orders

Orders not affecting the legal course of an action such as orders setting case for trial, orders acting upon a request for a continuance may be designated by the Clerk as a not-minute entry order. Memorandum opinions, unless designated by the Court, shall be treated as non-minute entries. Such designated orders shall be marked filed and placed in the file of the case, but not spread upon the minutes of the Court.

14.05 Payment and Satisfaction of Judgment

(a) Funds paid to the Clerk by check drawn on a local bank will not be disbursed until ten (10) days after the Clerk receives the check. Funds paid to the Clerk by check drawn on out-of-county banks will not be disbursed until fourteen (14) days after the Clerk receives the check. Alimony and child support payments may be disbursed sooner at the discretion of the Clerk.

(b) Orders disbursing funds, other than agreed orders, must become final before the Clerk will disburse the funds unless all parties and counsel file an acquittance releasing the Clerk for the payment thereof, in which event the Clerk may disburse the funds.

(c) Upon receipt of any payment in satisfaction of the judgment whether through the clerk or otherwise, counsel will satisfy the docket by certifying receipt of the judgment on the docket book.

RULE 15

SPECIAL PROCEDURES FOR DIVORCES

15.01 Time for Hearing

(a) No divorce case wherein the parties have children under eighteen (18) years of age not otherwise emancipated, shall be heard until the same shall have been filed at least ninety (90) days unless the Court finds some compelling reason why the same should be so heard.

(b) No divorce shall be heard in any case until sixty (60) days have expired from the date of service of process. When service is by publication, the sixty (60) days does not commence to run until the date of the last publication.

15.02 Contested Divorce Cases

(a) In contested divorce cases, the Court will hear the parties to the action before hearing other witnesses unless, for good cause appearing, the Court finds it desirable to proceed otherwise.

(b) When the division of marital property and/or marital debts is an issue, the parties shall submit sworn asset and liability statements.

(c) In all divorce cases presented for approval, proof by corroborating witnesses is required.

15.03 Pendente Lite Child Support and Alimony Hearings

Motions and applications for child support and alimony pending the final hearing of a case will be submitted and heard on affidavits of income and need. The moving party shall include in the complaint, petition or motion allegations in support of such child support or alimony justifying the relief sought and prior to the hearing, the parties shall submit affidavits in support or opposition to the relief sought. Testimony by witnesses in support or opposition to the motion or application shall not be allowed except by leave of the Court for good cause shown.

15.04 Parenting Plans

(a) In contested temporary parenting plans, each party shall exchange and file his or her proposed plan at least two (2) days prior to the hearing date unless excused by the Court for good cause.

(b) If the entry of a permanent parenting plan is contested, each party shall exchange and file his or her proposed plan at least five (5) days prior to the hearing date unless excused by the Court for good cause.

(c) In all domestic cases involving parents of minor children, the parents, who are not in default, must each attend a certified and approved parenting plan seminar, and file a certificate of compliance prior to any hearing on the merits.

(d) Mediation - all litigants involved in petitions for modification of child support or alimony, contempt cases, other than simple arrearage matters, contested divorces and/or contested parenting cases, after attending any required parenting classes or seminar, prior to a trial on merits, must attend mediation. Mediation will only be waived in extraordinary situations, after a conference or hearing, with all parties and their attorneys being present.

15.05 Appointment of Guardian Ad Litem for Children

When the Court finds that it is in the best interest of the minor child(ren), guardian ad litem will be appointed to represent the child(ren), to investigate the circumstances of the child(ren) and to file a written report, with recommendations concerning the shared parenting of the children.

15.06 Cost of Mediation, Guardian Ad Litem, Psychological Evaluations and Counseling

The costs and fees of mediation, guardian ad litem, counseling and psychological evaluations are normally to be shared equally by the parties.

15.07 Role of Attorneys in Disputed Resolution

The attorneys will need to explain to their clients that during the initial filing, education, mediation, counseling, settlement conferences, or other dispute resolution process, the attorneys are expected to act as advisers and counselors, and not as litigators. The parties need to understand that contentious litigation is expensive and detrimental, and, in parenting plan cases, is very harmful to minor children and their parents, and to their continuing relationship with each other.

RULE 16

SPECIAL PROCEDURES FOR ADOPTION PROCEEDINGS

16.01 Presentation of Testimony

The testimony of adopting petitioners will be heard in the Court's Chambers unless the Court directs otherwise and this testimony may be presented in person or, in the event the adopting petitioners are not within the state of Tennessee on the date of the adjudication, their testimony may be presented by interrogatory or by deposition.

16.02 Attendance of the Adoptive Child

If the adoptive child is under fourteen (14) years of age, it shall be optional with the adopting petitioners as to whether the child or children involved in said adoption attend the adjudication, unless the Court directs otherwise. If the adoptive child is fourteen (14) years of age or older, said child shall attend the adjudication unless the Court directs otherwise.

16.03 Children Fourteen (14) Years of Age or Older

When the child sought to be adopted is fourteen (14) years of age or older at any time before granting the adoption petition, the Court must receive the sworn written consent of such child and such consent shall be taken by the Court in Chambers with only the child and the guardian ad litem, if one is appointed, present. Such consent shall be filed with the record and such consent shall be recited in the order of adoption.

16.04 Decrees of Adoption

Final decrees of adoption shall be prepared and entered in accordance with the provisions of Tennessee Code Annotated § 36-1-119, as amended.

RULE 17

SPECIAL PROCEDURES FOR EXTRAORDINARY INTERLOCUTORY RELIEF

17.01 Restraining Orders in Cases Other Than Domestic Relations Cases

Proposed restraining orders shall be prepared by counsel prior to submitting the request for relief to the Court. All restraining orders shall provide for the setting of a hearing of a temporary injunction and shall provide a place thereon for the Court to set a date, time and location for such a hearing. The proposed restraining order shall also provide a place for the setting of the amount of the bond.

17.02 Restraining Orders, Temporary Injunctions in Domestic Relations Cases

(a) In domestic relations cases, all restraining orders or temporary injunctions obtained without notice to the adverse party shall provide for the setting of a hearing thereon within fifteen (15) days unless the Court is unable to hear said matter within said time, in which event, the Court or Clerk may direct that the hearing be set at a later day, but, in any event, the same shall be set as soon after the fifteen (15) days as may be

practical and the date of the hearing shall be stated in said notice. Such restraining order or temporary injunction and accompanying notice shall be served on the party at least five (5) days before the date of the hearing excluding Saturdays, Sundays and holidays and shall include language which shall clearly notify the defendant or respondent that he or she shall file a written declaration of intention with the Clerk stating whether he or she will or will not be present for the hearing. Failure to so respond by filing the declaration with the Clerk no later than twenty four (24) hours prior to the time set for the hearing shall be deemed and treated as a waiver of the hearing, in which event the restraining order or temporary injunction shall remain in effect pending the final hearing unless sooner modified or dissolved by the Court. The notice of hearing and notice of defendant's or respondent's declaration of intention to attend or not attend the hearing shall be prepared by counsel for the complaining party and filed in triplicate with one copy to be retained by the Clerk and the other two copies to be attached to the service copy of the restraining order or temporary injunction and such notice shall be substantially in the following form:

IN THE CHANCERY COURT FOR _____ COUNTY, TENNESSEE

Style of case:

_____ vs _____
Plaintiff-Petitioner Defendant-Respondent

TO:

Name of Defendant or Respondent

A hearing is scheduled before the Judge of the Chancery Court at
_____ on _____, 20____,
at _____ .m. to determine if the _____ restraining order _____ temporary
injunction herewith served upon you shall remain in force and effect pending
the final hearing of this cause. You may appear at said time and place and
have a hearing for the Court to determine if the _____ restraining order

____ temporary injunction should remain in force and effect pending the final hearing of this cause or you may waive said hearing, in which event the same will remain in force and effect. You shall declare your intention by stating whether you will or will not appear at the hearing by signing a copy of the appended written declaration and by filing the same in the Clerk and Master's Office at _____ at least Twenty-Four (24) hours before the hearing date. Your failure to file this declaration within said time shall be deemed and treated as a waiver by you of the hearing in which event the ____ restraining order ____ temporary injunction shall remain in force and effect pending the final hearing.

This ____ day of _____, 20__.

CLERK AND MASTER

DECLARATION

I hereby declare that I ____ will ____ will not be present (check one) and participate in the hearing on the above ____ restraining order ____ temporary injunction.

This ____ day of _____, 20__.

Signed: _____
Name of Defendant or Respondent

(b) No restraining order or temporary injunction shall be issued in a domestic relations case without notice and hearing unless the verified complaint or petition or accompanying affidavit clearly shows that the applicant's rights have been violated, or that there is a substantial likelihood that the same will be violated by the adverse party and that the applicant will suffer immediate and irreparable injury, loss or damage before notice can be given and a hearing had.

(c) Except in cases prosecuted in forma pauperis, the Court may require the applicant to make bond before a restraining order or temporary injunction is issued.

(d) In domestic relations cases, a restraining order or temporary injunction may be signed and issued by the Clerk by fiat from the Court or the same may be granted by the Court.

If the Judge of the Court in which the action is pending or is to be filed is disqualified, disabled or absent from the county, such fiat, restraining order or temporary injunction may be granted by any Judge having statutory power to enjoin or restrain.

RULE 18

SPECIAL PROCEDURES FOR JUDICIAL REVIEW OF ADMINISTRATIVE DECISIONS

18.01 Briefs Required

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

18.02 Filing and Service of Briefs

The petitioner-appellant must file and serve a brief within thirty (30) days after the record is filed. The defendant-appellee must file and serve a brief within twenty (20) days after service of the brief of the petitioner-appellant. Reply briefs may be filed at the option of a party, and if filed, must be filed and served within ten (10) days after service of the preceding brief. Upon motion of a party or upon its own motion, the Court may enlarge or

shorten the time for filing briefs.

Copies of all such briefs may be mailed to or lodged with the Court.

18.03 Consolidated Briefs

In cases involving multiple parties and cases consolidated for judicial review, any number of parties may join in a single brief and any party may adopt by reference any part of the brief of another party. Parties may similarly join in reply briefs.

18.04 Hearings on Oral Argument

Hearings on oral argument may be scheduled after the record and briefs have been filed.

18.05 Waiver of Oral Argument

Oral argument may be waived by agreement of counsel. Failure to request oral argument within ten (10) days after the filing of responsive briefs shall be deemed and treated as a waiver of oral argument.

RULE 19

PROBATE AND CONSERVATORSHIP MATTERS

19.01 Jurisdiction

The Chancery Court of the Thirteenth (13th) Judicial District presently has jurisdiction of all probate matters in the counties of Clay, Dekalb and Overton.

19.02 Inventory

An inventory of all personal property owned by the decedent at the time of death shall be filed, unless waived, for all estates **within sixty (60) days** from the date of the appointment of the executor or administrator.

19.03 Clerk and Master Authorized to Hear Routine Probate Matters

As authorized by **T.C.A. § 16-16-201**, the Clerk and Master in the Thirteenth Judicial District except where Probate jurisdiction is by Private Act, is authorized, in informal proceedings, to hear and enter Orders in routine probate and estate matters. Probate matters are to be presented by the attorneys and not by a member of their staff.

19.04 Private Sale of Property of Minor and/or Incompetent

The Court will not approve the private sale of the property of a minor or incompetent

without the benefit of a professional appraisal of the property.

19.05 Judicial Sale by Clerk and Master, as Special Commissioner

Unless the Court orders otherwise, the sale of property under a Court decree, will become final ten (10) days after the sale date, unless the final bid price has been raised by at least 10%.

If any person proposes to advance or raise the bid by 10% or more, he or she shall execute and deliver to the Clerk and Master (1) cash, or (2) a certified check, or (3) a money order, or (4) a bond with one or more sufficient sureties, in the amount of the raised bid.

Upon the execution and delivery of one of the required methods of advancing the bids, and its acceptance by the Clerk, the Clerk shall, upon demand, refund to the original bidder all money paid as purchase.

19.06 Advertising on Resale

It is not required that the resale of the property be advertised to the same extent as was done for the initial sale. The parties to the lawsuit, however, may choose to have the Clerk and Master fully advertise the resale of the property. Any dispute about the advertising will be resolved by the Chancellor.

19.07 Terms of Sale

Unless otherwise approved by the Court, the usual procedure for a judicial sale of land by the Clerk and Master, as Special Commissioner, will be to offer the property for sale for all cash.

19.08 Fees for Administrators, Executors, and Attorneys

In all instances where the fees of an administrator, executor, or attorney for the estate are not agreed upon and are to be fixed by the Court, a petition must be filed stating the fees that are being requested. The petition must also contain a certificate that a copy has been mailed or delivered to all persons entitled to notice. If the fees requested are in excess of **\$5,000.00** for any administrator, executor or attorney, then the petition must be accompanied by the affidavits of two disinterested attorneys stating the amounts they consider to be reasonable fees. Any petition requesting a fee for a personal representative or any attorney in excess of **\$10,000.00** will be heard, on notice, by the Chancellor, instead

of the Clerk and Master.

19.09 Fee Guidelines

When fixing the fees of personal representatives and attorneys, the Court will consider the value of the decedent's gross estate, including real estate and personal property passing outside the estate but subject to the filing of estate and/or inheritance tax return(s), and will use the following guidelines in determining the appropriate fees for the personal representatives and attorneys:

<u>VALUE OR GROSS ESTATE</u>	<u>FEES</u>
First \$100,000.00	3% to 5%
Next \$900,000.00	2% to 4%
Over \$1,000,000.00	1% to 3%

These guidelines reflect what may be considered to be reasonable fees, but are not binding on the Court, the parties, or the attorneys. The Court may also award fees based on an hourly rate rather than setting the fees as a percentage of the gross estate. If there are two or more personal representatives, and there is no agreement, the Court shall apportion the fees in accordance with the services rendered by each representative. The amount of the fees being paid to, and the services being rendered by, accountants, investment advisers, brokers, appraisers or other professionals, will also be considered by the Court in the setting of fees for attorneys and personal representatives. If an attorney also serves as the personal representative, the Court will take into consideration all of the services rendered, but only one fee will be awarded.

19.10 Closing Estate on Petition, Receipts and Waiver in Lieu of Final Settlement

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

1. The time for filing claims with the Clerk has expired;
2. No beneficiary is under disability, and no trust is created in a Will;
3. Written evidence of satisfaction and release of all claims filed and the payment of all inheritance and estate taxes is attached to the petition, or filed in the Clerk's office;
4. Each 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 beneficiary waives notice of

and the filing of a final settlement, which receipt is attached to the petition; and,

5. A statement is made a part of the petition that no part of the estate escheats under the laws of Tennessee, and that the decedent has no pending claims involving the TennCare program.

RULE 20

DORMANT CASES: DOCKET CALLS

20.01 Dismissal of Dormant Cases

To expedite cases, the Court may take reasonable measures to purge the docket of old cases where the cases have been dormant without good cause shown for an extended time.

20.02 Dismissal for Want of Prosecution

Copies of the order dismissing a case for want of prosecution shall be mailed to all counsel of record and to any party with counsel of record.

RULE 21

WORKER'S COMPENSATION CASES

21.01 Setting for a Trial on the Merits

Worker's compensation cases do not require a pre-trial conference, but these cases are not to be set for a trial on the merits until:

- A. A benefit review conference has been held and the report has been filed;
- B. All discovery has been completed; and
- C. All medical and other evidentiary depositions have been taken and transcribed, or the stipulated medical records and/or physician's reports have been obtained.

21.02 Statement and Copies of Medical Depositions and Records to be Sent Prior to Trial

At least **three (3) days** prior to a trial on the merits, the attorneys for the parties shall send to the Chancellor completed Worker's Compensation Information forms required by the Court and copies of the medical depositions and records.

RULE 22

ENTRY AND DISTRIBUTION OF RULES

These proposed rules are published for comment on _____, 2010. These rules, as revised, will then become effective on September 1, 2010, and shall be published for distribution through the seven (7) Clerk's offices in the District, and further shall be published on the online computer website hosted by the Administrative Office of our Supreme Court, and on any such subsequently developed governmental information website for the counties within this district and the Clerks of the respective Courts in the Thirteenth Judicial District shall spread these rules upon the minutes of the Court. The Clerk of each such Court shall such rules to be printed or otherwise reproduced for distribution to attorneys, parties and members of the public and the cost thereof shall be charged to the expense of the Clerk's office.

Proposed for adoption this _____ day of _____, 2010.

RONALD THURMAN
CHANCELLOR