

RULES
OF LOCAL PRACTICE IN
THE CIRCUIT AND CHANCERY
COURTS FOR SULLIVAN COUNTY,
TENNESSEE

Effective September 1, 2019

CLERKS OF THE COURTS

BRISTOL:

Circuit Court
Justice Center
801 Anderson St.
Bristol, TN 37620
(423) 652-1030

Chancery Court
Justice Center
801 Anderson St.
Bristol, TN 37620
(423) 989-4361

BLOUNTVILLE:

Circuit Court
Sullivan Co. Justice Ctr.
P.O. Box 585
Blountville, TN 37617
(423) 279-2752

Chancery Court
Sullivan Co. Justice Ctr.
P.O. Box 327
Blountville, TN 37617
(423) 323-6483

KINGSPORT

Circuit Court
225 W. Center St.
Kingsport, TN 37660
(423) 224-1724

Chancery Court
225 W. Center St.
Kingsport, TN 37660
(423) 224-1726

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RULE 1

SCOPE OF RULES

The following Rules of Local Practice shall govern the rules of procedure in all of the Circuit and Chancery Courts of Sullivan County in **civil actions** and shall become effective September 1, 2019, expressly repealing all Local Rules adopted previously.

For purposes of these rules, the term *pro se* party (a/k/a “self-represented litigant”) shall be used interchangeably with “attorney” and “counsel” when an individual is representing himself/herself. Court personnel shall make a copy of these Local Rules available to *pro se* litigants.

All days referred to in these rules shall be computed according to the Tennessee Rule of Civil Procedure (T.R.C.P.) 6.01.

Court personnel are forbidden from interpreting any rule of procedure or giving any legal advice.

Notice is hereby given to all persons that Court personnel assume no responsibility for any misinformation regarding substantive law, procedural rules, rules of local practice, or local customs.

E.G. Moody

E.G. Moody, Chancellor
801 Anderson Street
Bristol, TN 37620

John S. McLellan, III

John S. McLellan, III, Circuit Court Judge
225 West Center Street
Kingsport, TN 37660

William K. Rogers

William K. Rogers, Circuit Court Judge
200 Shelby Street
Kingsport, TN 37660

RULE 2

ASSIGNMENT OF CASES

All civil actions filed shall be assigned to the Circuit Judges and Chancellor pursuant to an order entered on July 24, 1984, as authorized by T.C.A. §16-2-509 and as said order may hereinafter be amended.

The order of assignment of cases requires the Clerks of the Court to assign the cases as follows:

(a) To the Judge of the Circuit Court Part I, two of every five cases filed in the Circuit and Chancery Courts at Kingsport and Bristol and all civil cases filed in Circuit Court at Blountville.

(b) To the Judge of the Circuit Court Part II, one of every five cases filed in the Circuit and Chancery Courts at Kingsport and Bristol, but no jury cases.

(c) To the Chancellor of the Chancery Court, two of every five cases filed in the Circuit and Chancery Courts at Kingsport and Bristol and all cases filed in the Chancery Court at Blountville.

Petitions for approval of workers' compensation settlements, workers' compensation medical benefits' settlements, minors' settlements, structured settlement buyouts, etc. shall not be heard unless the petition states that **"THIS IS THE FIRST APPLICATION FOR APPROVAL OF THE PROPOSED SETTLEMENT."**

In order to preserve the integrity and control of the Court's docket, attempts to circumvent the Court's random case assignment process are prohibited.

RULE 3

MOTION DAYS

Motion Days are set aside for the purpose of expediting the trial of the non-jury docket.

All matters which require more than thirty minutes shall not be set or heard on Motion Days. Matters that may be set on Motion Days by counsel, include but are not limited to: orders of protection; uncontested divorces; motions for temporary support; contempt actions; motions to enforce and/or modify visitation rights; motions to enforce marital dissolution agreements and/or parenting plans; motions for summary judgment, and motions to dismiss.

Contested custody cases and contested divorce actions shall not be heard on Motion Days and counsel shall not cite persons to appear in such proceedings on Motion Days. Application must be made to the Court to set the trial of these cases.

Motion Days for Circuit Court Part I shall be held at Kingsport on the first and third Fridays of each month and Bristol on the second and fourth Fridays. Motion Days for Chancery Court shall be held at Kingsport on the second and fourth Fridays of each month and at Bristol on the first and third Fridays. Motion Days for Circuit Court Part II shall be held at Kingsport on the first Friday of each month and at Bristol on the third Friday. Motion Days may also be scheduled for other days. Attorneys shall confirm Motion Days with the Clerks of the Courts.

Cases pending in the Chancery Court at Blountville or the Circuit Court at Blountville may be heard on any Motion Day at Bristol or Kingsport.

RULE 4

MOTIONS

- A. All motions shall be set for hearing within a reasonable length of time after filing and prior to the commencement of the session of court when the case is scheduled for final hearing.

The attorney who files a motion has the responsibility to make a timely application to the Clerk to set the matter for a hearing. Failure to comply with this rule shall be construed by the court as an abandonment of the motion.

Motions for new trials, motions to amend a judgment, or any post-trial motion shall be presented to the court for hearing and argument within 30 days after the motion is filed, but not prior to the discharge of the jury. In the event counsel fails to present the motion within a 30-day period after filing, the court may make a ruling without oral argument. *See generally Jerkins v. McKinney, 533 S.W. 2d 275 (Tenn. 1976).*

- B. *Notice of Hearings shall be on a separate sheet of paper and shall clearly state all issues to be heard. Any issues not listed will not be heard.*

RULE 5

TEMPORARY RESTRAINING ORDERS

Applications for *ex parte* restraining orders must be presented to the Judge or Chancellor of the Court in which the action is pending. If the Judge or Chancellor is disqualified, disabled or absent from the county, the application may be presented to a Judge or Chancellor of a Court having comparable jurisdiction. See T.R.C.P. 65.04(3). In domestic relations' cases, application for an *ex parte* restraining order may be presented to a Judge or Chancellor sitting by interchange in order to expedite the issuance of such orders.

RELIEF VIA INJUNCTION OR RESTRAINING ORDER CONSTITUTES A LIMITATION UPON THE FREEDOM OF ACTION OF AN INDIVIDUAL AND SUCH RELIEF WILL NOT BE GRANTED LIGHTLY OR UNADVISEDLY. SUCH RELIEF IN AN EX PARTE APPLICATION WILL ONLY BE GRANTED WHERE IT IS CLEARLY SHOWN THERE IS NECESSITY FOR QUICK ACTION. THE PARTY APPLYING FOR SUCH RELIEF MUST SUSTAIN THE BURDEN OF SHOWING ITS NECESSITY, AND THIS BURDEN IS INCREASED IN THE ABSENCE OF THE PARTY WHOSE FREEDOM OF ACTION IS SOUGHT TO BE RESTAINED EVEN THOUGH TEMPORARY.

RESTRAINING ORDERS SHALL NOT BE WORDED IN SUCH A MANNER AS TO DIRECT A CHANGE OF CUSTODY.

The Temporary Restraining Order in a domestic relations' case shall not apply to children over 18 who have graduated from high school unless they are mentally or physically disabled.

In other than domestic relations' cases, temporary restraining orders will **not** be signed *ex parte* **without at least** telephone or electronic notice to the opposing counsel or party of place and time the moving party will appear before a Judge or Chancellor.

NOTE: No such extraordinary process shall be granted, unless the party applying for it states in the party's petition **"THIS IS THE FIRST APPLICATION FOR SUCH PROCESS."** See T.C.A. § 29-1-107.

RULE 6

WITNESS SUBPOENAS

A witness, who is directed by subpoena to appear at a hearing or trial, is entitled to reasonable notice in advance of the hearing or the trial. Officers serving process are also entitled to reasonable notice in advance of the trial. Unless there is a statute or rule of law directing otherwise, subpoenas for a witness must be issued and delivered to the person authorized to serve the subpoena at least three (3) full days prior to the date of the hearing or trial at which the witness is ordered to appear. Failure to serve a witness with a subpoena that has not been issued and delivered within at least three (3) full days prior to the date of the hearing or trial shall not be a ground for a continuance of the hearing or trial.

All subpoenas for witnesses shall be issued by the Clerk in accordance with Rule 45 of the Tennessee Rules of Civil Procedure and T.C.A. §23-2-105.

Counsel of record and *pro se* litigants shall be responsible for issuance of subpoenas in accordance with this rule and the Tennessee Rules of Civil Procedure as well as T.C.A. §23-2-105 and other applicable rules.

Nothing in this Rule shall prohibit Counsel of record and *pro se* litigants from entering into an Agreed Order that allows the release and distribution of relevant and material information between interested parties, provided such Agreed Order does not conflict with the Tennessee Rules of Civil Procedure, as well as any other State or Federal rules or statutes governing the release and distribution of such information.

SUBPOENAS FOR MEDICAL RECORDS

All subpoenas issued by the Clerk for medical records shall reflect compliance with the Health Insurance Portability and Accountability Act (H.I.P.A.A.). See 45 C.F.R. §164.512(e).

The Clerk shall not issue a subpoena pursuant to T.R.C.P. 45.02 for medical records unless the subpoena includes the following:

HIPAA NOTICE

A copy of this subpoena has been provided to counsel for the patient or the patient by mail, electronic mail or facsimile on the ____ day of _____, 20____ so as to allow him/her seven (7) days to:

(A) serve the recipient of the subpoena by mail, electronic mail, or facsimile with a written objection to the subpoena, with a copy of the notice by mail, electronic mail, or facsimile to the party that served the subpoena, and

(B) simultaneously file and serve a motion for a protective order consistent with the requirements of T.R.C.P. 26.03 and 26.07.

If no objection is made within seven (7) days of the above date, you shall process this subpoena and produce the documents by the date and time specified in the subpoena. The signature of counsel or party on the subpoena is certification that the above notice was provided to the patient.

RULE 7

EXPERT WITNESSES

Unless counsel agree otherwise or the court orders otherwise, no expert witness shall be permitted to testify in person at a hearing or trial or by deposition unless the party offering the expert witness has provided opposing counsel with an up-to-date written report of the expert witness at least five (5) days prior to the date of the deposition or the personal appearance of the witness. The report shall contain at least the minimum information as required by T.R.C.P. Rule 26.02 (4)(A). This rule shall have no application where a deposition of an expert witness is taken by any party for discovery.

When a defendant exercises his or her legal right to have a plaintiff independently examined, counsel shall seek to agree to the independent examiner. If an agreement cannot be reached, the defendant shall petition the court for an appropriate order requiring the plaintiff to submit to such examination by a physician designated by the Court. It shall be the duty of counsel of the defendant to obtain a written report of the independent examiner as soon as possible following the examination and to deliver and/or mail a copy of said written report to counsel for the plaintiff immediately upon the receipt of it.

Unless special leave of the Court is obtained, each side shall be limited to two (2) expert witnesses concerning the same issue. This limitation upon expert witnesses is to prevent cumulative testimony. A party to a case who testifies as an expert witness shall not be considered as one of the two expert witnesses.

RULE 8

JURY AND NON-JURY TRIALS

A. JURY TRIALS. Jury trials shall be set at regularly scheduled docket soundings. The Circuit Court Clerk shall advise counsel of record of such soundings. All attorneys of record shall be responsible for answering every docket call. Cases shall be set for trial from a list prepared in the order that the actions were filed. No case shall be set for trial unless it is “at issue” under the rules of pleading and practice. Cases shall not be set for trial solely for the purpose of negotiations.

Plaintiff’s counsel shall be responsible for preparing an order setting the trial date and shall serve a copy on all parties immediately following the docket sounding.

Generally, there shall be no setting of cases outside a regular scheduled docket sounding except: (1) where the action was set for trial and could not be heard because of a trial in progress; or (2) where out-of-state witnesses are expected to travel a considerable distance to attend the trial; or (3) where other extraordinary circumstances justify a pre-setting of the action.

Consolidation of actions. In cases where third-party actions are pending, such cases shall **not** be consolidated for trial with the original action unless express approval of the Court is granted prior to or at the sounding of the docket. Third-party actions which raise new issues and which appear to unduly complicate the original issues, shall be severed for trial.

Communications with jurors. After the jury venire has been released and while the term or session of Court is still in progress, an attorney or any other person shall not communicate with or cause another person to communicate with any juror regarding a trial. After the term of Court is concluded and the jury is discharged, an attorney may talk to any juror, if such juror agrees to engage in a conversation, but shall refrain from asking questions or making comments

calculated to harass or embarrass the juror or to influence his/her actions in future jury service.

Settlement. Counsel shall **promptly** notify the Clerk's Office and the Judge's Office of a settlement. Failure to comply with this rule may result in the taxing of the costs of bringing the jury in against the parties and/or the attorneys of record.

Subrogation matters. When a case is set for jury trial, it is set for trial for all purposes, including all subrogation claims. If a settlement is agreed upon by all of the parties, leaving only a subrogation claim outstanding, the subrogation claim can be continued if it is moved to the non-jury docket. Otherwise, the subrogation claim shall be heard by the jury during the original trial.

Chancery jury trials. In the event a party requests a jury in a Chancery case, it shall be the responsibility of the attorney for the party requesting the jury to contact the Circuit Court Clerk and to add the Chancery case to the end of the Circuit Court Jury Docket.

Continuances. The Clerk of the Court is not permitted to accept announcement of a continuance of a Non-Jury case. If the parties agree that a Non-Jury case should be continued, counsel shall advise the Administrative Assistant to the Judge or Chancellor to whom the case is assigned or the Judge or Chancellor to whom the case is assigned. A continuance may only be granted by the Judge or Chancellor to whom the case is assigned. The moving party shall be responsible for preparing an Order, which has been approved by all counsel, continuing the trial date.

B. NON-JURY TRIALS. Non-Jury cases shall be set for trial with the Administrative Assistant to the Judge or Chancellor to whom the case is assigned. No case shall be set for trial unless it is "at issue" under the rules of pleadings and practice. Plaintiff's counsel shall be responsible for preparing an order setting the trial date and shall serve a copy on all parties.

C. CASES MAY BE SET FOR TRIAL. (a) without the request of the parties but upon notice to the parties, or (b) upon request of a party and notice to the other parties pursuant to rule 40 TRCP.

RULE 9

ENTRY OF ORDERS AND JUDGMENTS

It shall be the duty of every counsel appearing before the Court to prepare and submit a judgment or order consistent with the relief orally granted. Such orders and judgments shall be filed within fifteen (15) days after the announcement of the decision by the Court, or after the verdict of the jury.

Proposed orders or judgments may be lodged with the Clerk or directly with the Court.

If original orders are not filed, an electronic copy must be filed instead of a fax copy.

If it is necessary to file a fax copy due to time constraints, an electronic copy or the original order shall be substituted.

Unless the parties agree to the contrary, the order or judgment shall be prepared by counsel for the successful party or if the decision or verdict be partly in favor of each party, then the order or judgment shall be prepared by counsel for the plaintiff. If a dispute occurs in the wording, the party charged with its preparation shall submit directly to the Judge's or Chancellor's chambers a proposed order or judgment with notice to opposing counsel. Opposing counsel shall have five (5) working days thereafter to prepare an alternate judgment and submit it directly to the Judge's or Chancellor's chambers with like notice to the other counsel.

When counsel submits an order or judgment pursuant to this rule, it **MUST** be accompanied by a statement that counsel has made a *bona fide* effort to resolve all disputes with opposing counsel before it will be considered. Opposing counsel's competing order or judgment must track the first one submitted so that the differences are readily ascertainable.

The Court will dismiss, sua sponte, all cases which have not had any activity within 2 years.

RULE 10

NEGOTIATIONS DURING SUIT

When suit has been filed and process has been served upon the defendant, the plaintiff's attorney shall only negotiate with the attorney for the defendant or with any person designated by the defendant's counsel as his agent for negotiation. In the event the defendant is not represented by counsel, the plaintiff's attorney will only negotiate settlement with the defendant personally.

When defendant's counsel designates a person to act as his agent to negotiate, a letter confirming the same shall be sent to the plaintiff's counsel with a copy of the letter to the Clerk of the Court for inclusion in the Court file.

It shall be the duty of all Members of the Bar to determine, from the Clerk of the Court, whether the plaintiff or the defendant is represented by counsel of record before negotiating during the pendency of any suit.

Any person, not an attorney of record, who in any way interferes with the orderly procedures of the Courts by participating in any case, by contacting the adverse party for the purpose of negotiating a settlement or for any other unauthorized purpose, will be in violation of this rule and may be held in contempt of court.

RULE 11

REMOVAL OF RECORDS FROM THE COURTHOUSE

All records in the custody of the office of the clerk, except records rendered confidential by express provisions of law, are public records and shall be made available under the following procedure and policy established by the Circuit Court Clerk and the Clerk and Master.

Court files can only be checked out by Judges, Chancellors, the Child Support Magistrate, or another court.

If a citizen of the State of Tennessee requests to see a file, a minute book, or Laserfiche or have copies made, the following procedures shall be followed:

- (a.) A request to view a file can be made orally or in writing to the Clerk at no charge. A request for copies must be made in writing and paid for in advance with cash, money order or a cashier's check. The Clerk may charge for their time if the work takes longer than five (5) hours.
- (b.) If possible, the file should be made available for inspection promptly. If not possible, within seven (7) business days, the Clerk may deny the request in writing or complete a records' request response form including the basis for the denial or furnish the requestor a completed records' request response form stating the time necessary to produce the record including the copying fee.
- (c.) The Clerk may provide a list of the rule entries to the requesting party. The documents that have been requested must be reviewed by the Clerk. If any document contains confidential information, including but not limited to, Social Security numbers, credit card account numbers, loan account numbers, addresses and telephone numbers of individuals that have filed an Order of Protection and have requested that their information be confidential, the Clerk will make a copy, redact the information, and then make a copy of the redacted copy. Confidential information contained in a sealed envelope can only be opened upon court order. If the requestor

(other than the attorney of record or court personnel) requests a certified copy, then the clerk must write on the certification that this is a copy of a redacted copy.

- (d.) **Files removed from the courtroom by counsel shall be taken directly to the Clerk's office.**

RULE 12

FILING OF MOTIONS FOR SUMMARY JUDGMENT, MOTIONS TO DISMISS, AND BRIEFS

When briefs are requested or submitted without request, such submissions shall be made directly to the Judge or Chancellor In chambers and counsel shall notify opposing counsel of such submission by forwarding a copy to opposing counsel.

In all cases involving motions under Rule 12 or Rule 56, the following shall be submitted directly to the Judge or Chancellor in chambers.

First, the moving party shall submit, by twelve (12) noon at least ten (10) working days before the hearing on the motion, a package containing copies of:

- (a.) Notice of time, date and place of motion;
- (b.) Motion to dismiss or for summary judgment;
- (c.) Relevant pleadings;
- (d.) In compliance with the manner and form of Rule 56.03 (T.R.C.P.), a separate, concise statement of the material facts as to which the moving party contends there is no genuine issue for trial supported with a specific citation to the record (only the portions of the depositions relevant to the motion shall be submitted); and,
- (e.) Brief in support of the motion.

Second, the party opposing the motion shall, at least six (6) working days before the hearing on the motion, submit a package containing copies of:

- (a.) A response in accordance with T.R.C.P. 56.03 (only the portions of the depositions relevant to the motion shall be submitted);
and
- (b.) Supporting brief.

Third, if the non-moving party has asserted additional facts, the moving party's reply shall be submitted in the manner and form specified in T.R.C.P. 56, at least three (3) working days before the hearing on the motion.

If the parties change the time, date, and/or place of the motion, the moving party shall immediately notify the Judge's or Chancellor's office. Likewise, the moving party shall also notify the Judge's or Chancellor's office in writing of the time, date and/or place at least five (5) working days before the new date for the hearing.

RULE 13

MEDIATION OF CONTRACTOR/HOMEOWNER
DISPUTES AND COMMERCIAL DEVELOPMENT
DISPUTES, AND BOUNDARY LINE DISPUTES

In a proceeding where a dispute exists between the parties as to the quality or *quantity* of the work performed on new construction of a residential or commercial structure or remodeling of a residential or commercial structure, the dispute shall be submitted to mediation before a trial will be scheduled.

In a proceeding where a dispute exists between the parties as to the interpretation of the terms of an agreement for work performed on new construction of a residential or commercial structure or remodeling of a residential or commercial structure, the dispute shall be submitted to mediation before a trial will be scheduled.

All boundary line disputes are required to go to mediation before trial.

Should the parties reach an impasse as to the selection of a mediator to hear the dispute, counsel of record or *pro se* litigants shall immediately inform the Court of the impasse and the Court will select and appoint a "Rule 31 Alternative Dispute Resolution Mediator" that is neutral to all of the parties.

The costs of mediation shall initially be taxed equally to the parties as court costs unless otherwise agreed by the parties.

RULE 14

CONDUCT, REPRESENTATION, ADMISSION AND SIGNING OF PLEADINGS

14.01. *Space within the Bar.* The space within the bar of the courtroom is reserved for parties engaged in the case on trial, attorneys and court officials. Spectators and prospective jurors and witnesses shall be seated outside the bar in the general seating area. The presence of infants in the courtroom is discouraged.

14.02. *Familiarity with Participants.* During trial, attorneys shall not exhibit familiarity with witnesses, jurors, or opposing counsel. The use of first names for is not allowed. No juror shall be addressed individually by name during opening statements or closing arguments. No attorney, party, witness, or other interested person shall engage in any conversation with any member of the jury panel during the trial without express consent of the Court.

14.03. *Approaching the Bench.* Attorneys shall not approach the bench without Court approval. Counsel shall not lean on the bench or appear to engage the Court in conversation in a confidential manner.

14.04. *Objections.* Attorneys shall not interrupt the Court or opposing counsel until the statement being made is fully completed, except when absolutely necessary to protect a client's rights, and should respectfully await the completion of the statement or opinion. 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 upon the objection. Objecting counsel shall state the legal grounds of the objection without argument or discussion except by leave of Court.

14.05. *Addressing Witnesses or Jurors.* Attorneys and *pro se* parties shall stand while examining witnesses or otherwise addressing the Court or jury. Exceptions may be made in the Court's discretion. When attorneys or *pro se*

parties are examining witnesses or addressing the jury, they shall not approach the witness or jury without the Court's permission.

14.06. Notice of Appearance. Only an attorney who has entered an appearance in a case will be counsel of record. Entry of appearance shall be by filing a pleading on behalf of a party, filing a formal notice of appearance, or written notice filed with the clerk.

14.07. Withdrawal of Counsel. No attorney shall be allowed to withdraw except for good cause and by leave of Court upon motion after notice to all other counsel and/or *pro se* parties, and to the client of the attorney wishing to withdraw. The motion shall set forth the reason for withdrawing with specificity, the status of the case, and whether withdrawal will result in a delay. All motions to withdraw shall state the trial date or that no trial date has been set and shall comply with the Code of Professional Responsibility.

The order allowing withdrawal shall bear a certificate of service reflecting that a copy of the order allowing withdrawal has been furnished both to the opposing attorney (or to the opposing party, if unrepresented) and upon the client of the attorney wishing to withdraw. Further, such order shall provide that the affected party has thirty days (or in more complex matters, sixty days) to secure other counsel if the party so chooses, which counsel shall enter an appearance within that time or it will be presumed that the client has elected to proceed *pro se*. The certificate of service shall contain the full mailing address of the client/party or his place of employment or state that the address is unknown.

The Motion to Withdraw from representation shall be set for hearing unless the client approves the Order of Withdrawal.

14.08. Attire. All attorneys are required to wear appropriate business attire during all court appearances. Litigants, witnesses and spectators must wear appropriate clothing. Shorts, swim suits, leotards, tank tops, muscle shirts, hats/caps, sunglasses, bare feet, or inappropriate attire are not permitted in the courtroom.

14.09. Forbidden Conduct. There shall be no use of tobacco, vaping, e-cigarette products, etc. in the courtroom. No books or newspapers shall be read in the courtroom.

14.10. Electronic Devices General Prohibition.

A. No one may possess an electronic device beyond the security checkpoints within any of the courthouses of this judicial district, except as allowed by this rule. For purposes of this rule, “electronic device” means any portable, electrical-powered device capable of sending or receiving wireless signal; storing, sending, or retrieving electronic data; or having computing capability.

B. Exception for Court Employees, Attorneys, Law Enforcement Agents, Tenants and Contractors. *The prohibition in paragraph (A) of this rule does not apply to the possession of electronic devices by:*

- (1) court employees;*
- (2) court reporters;*
- (3) attorneys ;*
- (4) law enforcement officers upon presentation of their credentials;*
- (5) employees and visiting employees of courthouse tenants;*
- (6) contractors approved by appropriate maintenance personnel or SCSO*

C. Photographing; Video and Audio Recording; and Video and Audio Broadcasting. *Individuals, other than court personnel, are prohibited from using electronic devices while in the courthouse to capture photographs, record audio or video, or broadcast audio or video recordings, unless otherwise permitted by order of the presiding judge.*

D. Enforcement. *A violation of this rule will be reported to a judicial officer for appropriate action or other sanctions, including but not limited to, the confiscation of the device, the violator being required to remove the electronic*

device from the courthouse, or revocation of the violator's privilege to bring electronic devices into the courthouse.

*E. **Judicial Discretion.** Any presiding judge may modify these procedures or suspend any person's privilege granted by this rule for good cause.*

14.11. Courtroom/ Courthouse Security. In order to ensure and maintain proper security for the protection of government property and safety of the Court, court personnel, attorneys and all persons in attendance, whether as a party, witness, or spectator, no person shall bring firearms, knives or any other weapon or explosive device into the facility in which judicial proceedings are being conducted. **The Sheriff is authorized and directed to employ all lawful and constitutional means necessary to ensure the security of the courtrooms and all passageways, corridors, rooms, and points of ingress and egress.**

The Sheriff may, circumstances requiring, in his/her discretion establish and promulgate reasonable regulations not inconsistent with this rule for purposes of carrying out his/her directive including, but not limited to, the search of all persons and their belongings seeking to enter the facility where Court is being held. Anyone seeking to enter the courthouse who does not consent to a search of their person and/or belongings when requested by one lawfully authorized to conduct said search will not be admitted.

Only courtroom personnel shall wear/carry firearms in the courtroom while court is in session. All other persons legally authorized to carry firearms must check their firearms with court security personnel while they are in the courtroom.

14.12. Admission to Practice.

A. Resident Attorneys. All attorneys who have been licensed to practice law in the State of Tennessee and who possess a current registration card issued by the Board of Professional Responsibility shall be automatically eligible to practice law in the courts of this district. Attorneys appearing in a case shall place their B.P.R. number below their signature on all pleadings and motions filed with the court. Upon making an initial appearance, an attorney will be formally introduced

to the Court and his/her qualifications vouched for by a Member of the Bar of these Courts.

B. Non-Resident Attorneys. Attorneys residing outside of the State of Tennessee and wishing to appear before a court of this district shall comply with Tenn. Sup. Ct. Rules 19 and 20 before making an appearance.

14.13. Attorneys' Fees. Whenever an attorney in a civil matter requests that the Court set an attorney fee, the attorney shall file a statement of services in compliance with Tenn. Sup. Ct. Rule 8, DR 2-106 and shall include type of services, time spent, hourly rate, suggested fee, contractual arrangement and other information required by the Court. (See Local Rule 19 and Appendix C for fiduciary fees and attorney fees in estates.)

14.14. Signing of Pleadings and Proposed Orders. T.R.C.P. Rule 11 requires all pleadings and other papers to be signed by at least one attorney of record in the attorney's individual name, or, if the party is not represented by an attorney, shall be signed by the party. **The name of the person signing shall be typed below the signature.** Any signature reproduced by facsimile or electronic transmission shall be treated as an original signature (T.R.C.P. Rule 5A03(2)). Each paper shall state the signer's address, fax number and telephone number, if any, in addition to the attorney's Tennessee Board of Professional Responsibility number.

Signature stamps are forbidden.

14.15 Filing with the Clerk. All papers, including pleadings, motions, judgments and orders, shall be filed with the Clerk. Approved original orders, judgments, etc. may be delivered to the Clerk or forwarded directly to the Judge or Chancellor for signature prior to entry. The Order or Judgment shall include the most current residence address of the party or parties to whom the costs are to be taxed.

14.16 Adoptions, Surrenders and Conservatorships. It is preferred that all Adoption Complaints and Petitions for Conservatorships be filed in the Chancery Court. *Once a party has been appointed a conservator by the Court, the party is*

required to take the conservator class. All surrender forms must be completed in full prior to presentation to the Court, and all signature lines must be tabbed. When an adoption case is ready to be set for hearing, counsel for the adoptive parent(s) shall contact the Judge's or Chancellor's office, to whom the adoption is assigned, to set a hearing date. A child fourteen years of age or older is required to attend adoption proceedings. If the child is less than fourteen years of age, the petitioners may decide whether or not the child will attend the hearing.

14.17 Special Requirements for Adoption cases in which the adopting parents are related to the child or children to be adopted: the case shall not be set by the Clerk for adjudication until the following documents have been filed:

- (a.) *The birth certificate or certificates of the child or children.*
- (b.) *A certified copy of any current order/judgment affecting the custody of the child/children.*
- (c.) *A death certificate if either biological parent is deceased.*
- (d.) *A certified copy of any current order/judgment affecting the custody of the child/children.*
- (e.) *A copy of the Putative Father Registry report within ten (10) days of the filing of the petition.*
- (f.) *Any confidential report, filed at least three (3) days prior to the adoption hearing.*

14.18 Filing of Discovery. Depositions, interrogatories, requests for documents, requests for admissions, responses, etc. thereto shall **not** be filed with the Clerk unless they are to be considered by the court for any purpose in the proceeding (See T.R.C.P. 5.05). Any such filing shall be at least five (5) days prior to hearing or trial, and notice of filing shall be given to opposing counsel prior to or immediately upon filing. The party submitting depositions, interrogatories, requests for documents, requests for admissions, responses, etc. shall provide opposing counsel/party with a digital copy.

14.19. Certificate of Service. All papers not approved for entry by the opposing counsel/party must include a certificate of service which shall contain the date of service and the name of the person(s) served, the address of the person(s) served, and the typed name and address of the sender.

No certificate of service will be accepted which merely certifies that “copies have been served upon all counsel/parties” or fails to clearly designate by name and address the person(s) so served.

14.20. Certificate of Service No counsel, party or a witness to a pending action shall contact the Judge or Chancellor, except as permitted by law. Counsel shall instruct litigants and witnesses that under no circumstances are they to contact the Judge or Chancellor. However, approved orders, judgments, etc., may be forwarded to the Judge or Chancellor for approval prior to entry. Any *ex parte* correspondence delivered to the Court, either received by the Judge or Chancellor in chambers or in open court, will be filed in the cause, made a public record and all parties will be sent a copy. The Court may consider the correspondence when a party presents an issue predicated upon the correspondence, pursuant to State v. Birge, 792 S.W.2d 723 (Tenn. Crim. App. 1990). See Tenn. Sup. Ct. Rule 10, Canon 2, note 1.

RULE 15

GENERAL SESSIONS' APPEALS

In an appeal to the Circuit Court of a Judgment entered in the General Sessions Court, the Clerk of the Circuit Court shall deliver to the party seeking the appeal the following Notice and shall serve on the party against whom the appeal is taken the same Notice by attaching it to the Notice of Appeal:

N O T I C E

A. The Defendant shall file a Statement, within fifteen (15) days of receipt of Notice of Appeal, and serve a copy of that Statement on all parties. The Statement shall set out any special or affirmative defenses that will be relied upon by the Defendant at trial, including but not limited to, the fault of any non-party. **Failure of the Defendant to timely file the Statement and serve a copy of it on all parties may result in the entry of a Judgment in favor of the Plaintiff or such other action as the Court deems appropriate.**

B. If a jury is demanded, the Plaintiff shall file a Statement within forty-five (45) days of the trial and serve a copy of that Statement on all parties. This Statement shall set out the facts of the case and specify all of the theories of recovery that will be relied upon by the Plaintiff at trial. **Failure of the Plaintiff to timely file the Statement and serve a copy of it on all parties may result in the dismissal of the appeal or such other action as the Court deems appropriate.**

C. If a jury is demanded, the Defendant shall file a Response to the Statement of the Plaintiff within thirty (30) days of the filing of the Plaintiff's Statement and serve a copy of it on all parties. **Failure of the Defendant to timely file a Response and serve a copy of it on all parties may result in the entry of a Judgment in favor of the Plaintiff or such other action as the Court deems appropriate.**

RULE 16

PARENTING PLAN/PARENT EDUCATION

SEMINAR/MEDIATION

16.01. General Provisions.

This rule is adopted to promulgate procedures to be followed in the Courts of Record in the 2nd Judicial District of Tennessee to ensure that the intent of the legislation codified as T.C.A. §36-6-401, et seq. is carried out in domestic relations' cases involving minor children. If any provision herein is found to be in conflict with the legislation, the legislation shall prevail.

Mandatory contents in a divorce complaint are:

- (1) If there are no children, a statement that there are no children born or adopted during the marriage.*
- (2) A statement that the wife is not pregnant.*
- (3) If there are adult children, a statement whether or not the children are physically or mentally disabled is required.*
- (4) A statement that the Servicemembers Civil Relief Act (SCRA) does not apply or a **Written Waiver** if it does apply (Appendix A p. 40).*

16.02. Duties of Clerks and Attorneys.

- A. When a Complaint for divorce, with fault grounds, is filed with the Clerk's office, a Temporary Restraining Order in compliance with T.C.A. §36-4-106(d) shall be submitted for the Court's approval.
- B. When a Complaint for divorce, involving minor children, is filed with the Clerk's office, the following items must be attached to the summons:
 - (1) Exhibit A (State Registry Form);
 - (2) Pursuant to T.C.A. 36-6-403, if the parties agree to a Temporary Parenting Plan, the agreement of the parties may be submitted to the

Court in a written Temporary Parenting Plan. If the parties do not agree to a Temporary Parenting Plan, consistent with the Statute, either party may request the Court to order dispute resolution in accordance with the Statute; or file an Affidavit of No or Limited Visitation, if appropriate; and, serve a Notice of Hearing as set forth in item 17.03 below.

- (3) Information for Defendant;
- (4) Letter to Defendant from Judges;
- (5) Acknowledgment of Defendant to Attend Parent Education Seminar;
- (6) Report of Income of Defendant with attached definition of gross income; and,
- (7) Documents in compliance with T.C.A. §36-4-106(b).

If the filing party is represented by an attorney, the above items shall be attached to the summons by the filing attorney and shall be filed along with the signed Checklist for Attorneys. If the filing party is not represented by an attorney, the Clerk shall give the filing party a packet and attach the signed documents to the Summons.

- C. In addition to the above, the filing party must file the following:
 - (1) Acknowledgment of Plaintiff to Attend Parent Education Seminar;
 - (2) Divorce Certificate; and,
 - (3) Report of Income of Plaintiff.
- D. The following forms shall be made available by the Clerks to attorneys and *pro se* litigants upon request:
 - (1) Permanent Parenting Plan;
 - (2) Restraining Order; and,

(3) Defendant's Packet.

16.03. Procedure for Determining Temporary Parenting Plan.

The temporary parenting plan shall be on a short form.

If the proposed temporary parenting plan is less than 50/50, the submitting party shall provide an explanation such as "by agreement", "past practice", etc.

A. IF PLAINTIFF IS ASKING THAT DEFENDANT HAVE NO VISITATION OR LIMITED VISTATION FOR ANY OF THE REASONS SET FORTH IN T.C.A. § 36-6-406, AN AFFIDAVIT OF NO VISITATION OR AFFIDAVIT OF LIMITED VISTATION MUST BE FILED ALONG WITH A NOTICE TO THE DEFENDANT TO APPEAR AT THE NEXT AVAILABLE MOTION DAY OF THE JUDGE OR CHANCELLOR FOR A HEARING TO DETERMINE WHETHER ANY VISTATION SHALL TAKE PLACE.

B. If the Court finds that the TPP submitted *by the parties* is reasonable, it will be adopted as the temporary order of the Court and it will continue in effect *until further order of the Court*.

C. Pursuant to T.C.A. §36-6-403(2), the TPP shall be accompanied by a verified statement that the Temporary Parenting Plan is proposed in good faith and is in the best interest of the child(ren). This verified statement shall specify the name and address of the caregiver for the child, as well as with whom the child has primarily resided during the six month period immediately preceding the filing of the complaint.

D. If the TPP serves to change the parenting schedule existing during the prior six month period, the verified statement shall so state.

A verified statement of income as defined by chapter 5 and a verified statement that the Temporary Parenting Plan is proposed in good faith, and that it is in the best interest of the child(ren) shall be included.

17.04. Modification of Previous Permanent Parenting Plan.

When a Petition to modify a previous Permanent Parenting Plan is filed, a proposed Permanent Parenting Plan designated Exhibit A shall be attached to the

Petition. The previous existing Permanent Parenting Plan will continue in effect until completion of the mediation process and court approval of another Permanent Parenting Plan, unless for good cause shown, the court orders otherwise.

16.05. Parent Education Seminar.

A. In actions for absolute divorce, divorce from bed and board, annulment, separate maintenance, custody proceeding, regardless of whether the parties are married, and in post-judgment modification proceedings involving minor children, both parents are required to attend a Parent Education Seminar.

No divorce shall be delayed due to the failure of a parent or parents to attend the Parent Education Seminar.

B. The Parent Education Seminar must be scheduled by Plaintiff within 30 days of the filing, and by Defendant within 30 days of being served with notice of the final hearing or pursuant to Order of the Court.

FAILURE TO COMPLETE THE PARENT EDUCATION SEMINAR AS REQUIRED BY TENNESSEE CODE ANNOTATED §36-6-408 AND BY THIS LOCAL RULE MAY RESULT IN A PARTY BEING HELD IN CONTEMPT OF COURT FOR WILLFUL DISOBEDIENCE TO THE COURT'S ORDER, PUNISHABLE BY A FINE OF UP TO \$50.00 AND/OR INCARCERATION IN THE COUNTY JAIL FOR UP TO TEN (10) DAYS FOR EACH VIOLATION AND/OR SUSPENSION OF TIME-SHARING PRIVILEGES WITH THE PARTIES' CHILD(REN).

IF ONE OR BOTH PARTIES HAVE NOT COMPLETED THE PARENT EDUCATION SEMINAR AT THE TIME THE DIVORCE IS HEARD BY THE COURT, A SHOW CAUSE ORDER FOR CONTEMPT SHALL BE ISSUED AND SERVED FOR THE NEXT HEARING DATE OF THE COURT CONSISTENT WITH T.R.C.P. 6.04, UNLESS GOOD CAUSE IS SHOWN.

C. Education Providers will make all arrangements for time, place and fees for seminars. Seminar schedules for each provider will be provided to the Clerk. Counsel and *pro se* litigants may obtain the information regarding the scheduling

of the classes from the Clerk's office. Education Providers will notify the courts by filing with the appropriate Clerk a copy of a Certificate of Attendance given to the parents completing the classes. Certificates shall include the following: name; docket number with name of the court in which the case is pending; name of the education provider; date the class was attended. Certificates shall be signed by a representative from the seminar provider.

D. Each party and his/her attorney is responsible for confirming that his/her certificate of attendance is properly filed in the court file prior to the date of the final hearing.

E. The fee or costs of the Parent Education Seminar shall be borne by the parties and shall be taxed as the Court deems equitable. Fees may be reduced or waived for indigent persons.

F. If either parent provides proof that he/she has completed a comparable program *within two (2) years* of the filing of the divorce petition, he/she is excused from the Parent Education Seminar requirement.

G. *A parent may attend an online parenting course provided that it has online monitoring and that it has been approved by the Judges/Chancellor.*

16.06. Permanent Parenting Plan.

A. If the parties cannot reach an agreement on a Permanent Parenting Plan, the parties may choose mediation, or request a judicial settlement conference.

B. If the parties have not reached an agreement on a Permanent Parenting Plan, each party shall file and serve proposed Permanent Parenting Plan 45 days before the trial. Parties may continue to mediate or negotiate. Failure to do so may result in the Court's adoption of a filed plan if the Court finds that the plan is in the best interest of the child. Each parent submitting a proposed Permanent Parenting Plan shall attach a verified statement of income, that the plan is proposed in good faith and that it is in the best interest of the child and a Child(ren) Support Worksheet (and Credit Worksheet when applicable) pursuant

to Tennessee Department of Human Services Rule 1240-2-4 and in accordance with T.C.A. §36-6-404(c)(3).

C. A Permanent Parenting Plan shall be presented at the time of the hearing of the divorce regardless of a Temporary Parenting Plan having been previously entered in the case.

16.07. Mediation and Mediators.

A. At any time during the divorce proceedings, the parties may choose to participate in alternative dispute resolution and select their mediator. However, either by the Court's own motion or by a motion of one or both parties, the Court may appoint a family mediator pursuant to Tennessee Supreme Court Rule 31. If the parties are unable to reach an agreement on a Permanent Parenting Plan within 120 days after the commencement of the action, the parties shall submit a scheduling order to the Court including a referral to mediation or alternative dispute resolution or request a waiver for just cause. The Court may designate a Rule 31 family mediator. The Court may tax the mediator's fees as court costs or decide that the case is appropriate for *pro bono* mediation.

B. The parties may directly negotiate the fees with the mediator. Each mediator must provide proof of three (3) *pro bono* mediations to the Administrative Office of the Courts annually.

C. Mediator reports shall be filed with the Court pursuant to Tenn. Sup. Ct. Rule 31. The reports shall include a 30-day report and a final report.

D. Judicial Settlement Conferences will only be available on motion and a showing of exceptional circumstances.

E. If the Court finds that a party willfully failed to appear at a scheduled dispute resolution process without good reason, the Court may award attorney fees and financial sanctions to the prevailing party. See T.C.A. §36-6-404(a)(4)(D).

16.08. Mandatory Mediation.

This rule makes mediation mandatory on all issues involving minor children. However, the Court encourages the parties to use mediation or other alternative dispute resolution methods on all contested issues.

16.09. Waiver.

Upon proper motion or, *sua sponte*, the Court may waive any requirements of this rule for good cause shown.

APPENDIX A

IN THE _____ COURT OF _____

COUNTY OF _____

_____ DIVISION

_____)	CASE NO. [ENTER CASE NO.]
)	
Plaintiff)	JUDGE [ENTER JUDGE'S NAME]
)	
)	
vs.)	
)	
)	
_____)	
)	
Defendant.)	

WAIVER OF RIGHTS UNDER THE SERVICEMEMBERS CIVIL RELIEF ACT AND ENTRY OF APPEARANCE AND CONSENT TO JURISDICTION

The defendant (RANK) (SERVICE MEMBER NAME), states that:

1. (She/he) is now on active duty in the armed forces of the United States, stationed at _____.
2. (She/he) is over the age of eighteen (18) years.
3. (She/he) has received a copy of the complaint filed in this case and has read and understands its contents.
4. (She/he) is aware of the rights (he/she) has under the Servicemembers Civil Relief Act of 1940, approved December 19, 2003.
5. (She/he) has been advised of all (his/her) rights under the Act by _____, special attorney.
6. (She/he) hereby waives all rights under the Act pertaining to this action.
7. (She/he) waives the issuance, service, and return of summons, enters (his/her) appearance, and consents to the jurisdiction of this court in this case, and agrees that this action may be heard at any time without further notice to (him/her).

Respectfully Submitted,

Service Member Rank, Full Name
Service Member Address
Date: _____

VERIFICATION

I, (SERVICE MEMBER RANK, FULL NAME), Defendant, state that the statements contained in this Waiver of Rights Under the Servicemembers Civil Relief Act and Entry of Appearance and Consent to Jurisdiction are true and correct to my knowledge and belief.

Service Member Rank, Full Name

STATE OF _____)
) ss
COUNTY OF _____)

On this ____ day of _____, 20__, (SERVICE MEMBER RANK, FULL NAME), personally appeared before me, a Notary Public for the aforesaid state and county, _____, to me well -known or satisfactorily proven, who stated that the statements in the foregoing Waiver of Rights Under the Servicemembers Civil Relief Act and Entry of Appearance and Consent to Jurisdiction were true and correct to the best of (his/her) knowledge and belief.

SUBSCRIBED AND SWORN TO before me this ___ day of _____, _____.

_____ Notary Public

My Commission Expires:

(S E A L)

RULE 17

AFFIDAVITS FOR CONTESTED DIVORCES AND **SUPPORT ACTIONS**

In all contested divorce cases, the parties shall file Appendices B and C with the Clerk, with a copy to the Judge's or Chancellor's chambers two (2) working days prior to the commencement of the trial.

In all actions involving child support, the parties shall file with the Court a current completed State of Tennessee Child Support Worksheet and, if necessary, a State of Tennessee Credit Worksheet with a copy to the opposing party at least two (2) working days prior to the commencement of the hearing. See <http://www.state.tn.us/humanserv/is/incomeshares.htm>.

FAILURE TO COMPLY WITH RULE 17 MAY RESULT IN SANCTIONS AND/OR A CONTINUANCE OF THE CASE.

In contested support actions without children, the parties are only required to file an affidavit showing a statement of monthly income, regular monthly expenses and debts.

The filing of the affidavits shall not relieve a party of proving the contents of the affidavits at the hearing. See *generally* Turner v. Turner, 776 S.W.2d 88 (Tenn. App. 1988).

APPENDIX B

**IN THE CIRCUIT/CHANCERY COURT FOR SULLIVAN COUNTY AT
KINGSPORT/BRISTOL/BLOUNTVILLE, TENNESSEE**

PLAINTIFF,

v.

CASE NO. _____

DEFENDANT.

**INCOME, EXPENSES AND ASSET/LIABILITY
STATEMENT IN COMPLIANCE WITH RULE 17**

Comes, now (Name of Party), the (Plaintiff/Defendant) who would show to the Court as follows:

1. a. He/she is employed at _____ located at _____
_____. His/her weekly gross income is \$ _____ and his/her net income per week is \$ _____. If wages are paid hourly, the wage is \$ _____ per hour. Sources of additional income: _____.

b. His/her spouse is employed at _____
located at _____. The spouse has weekly gross income of \$ _____ and net income per week of \$ _____. If wages are paid hourly, the wage is \$ _____ per hour. Sources of additional income: _____.

2. He/she owns the following interest in real property:

<u>Interest</u>	<u>Acreage</u>	<u>Location</u>	<u>Improvements</u>	<u>Fair Market Value</u>	<u>Amount of Secured Debt</u>	<u>Separate or Marital</u>
-----------------	----------------	-----------------	---------------------	--------------------------	-------------------------------	----------------------------

_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____

3. He/she owns the following interest in personal property:

a. Motor vehicles: Number owned _____.

<u>Year</u>	<u>Make/Model</u>	<u>Market Value</u>	<u>Lienholder</u>	<u>Balance Owed</u>	<u>Separate or Marital</u>
<hr/>					
<hr/>					
<hr/>					

b. Household Furnishings:

<u>Fair Market Value</u>	<u>Lienholder</u>	<u>Balance Owed</u>	<u>Monthly Payments</u>	<u>Separate or Marital</u>
<hr/>				
<hr/>				
<hr/>				

c. Bank Accounts:

<u>Bank</u>	<u>Type of Account</u>	<u>Balance</u>	<u>Separate or Marital</u>
<hr/>			
<hr/>			
<hr/>			

d. Stocks, Bonds & Other Intangibles:

<u>Shares</u>	<u>Company</u>	<u>Total Value</u>	<u>Separate or Marital</u>
<hr/>			
<hr/>			
<hr/>			

e. Other property of significant value, e.g., riding mower, tools, equipment, insurance cash value, boat, motorcycle, retirement plans, etc.:

<u>Item</u>	<u>Fair Market Value</u>	<u>Lienholder</u>	<u>Balance</u>	<u>Payments</u>	<u>Separate or Marital</u>

4. Spouse owns the following interests in real property:

<u>Interest</u>	<u>Acreage</u>	<u>Location</u>	<u>Improvements</u>	<u>Fair Market Value</u>	<u>Amount of Secured Debt</u>	<u>Separate or Marital</u>

5. Spouse owns the following interest in personal property:

a. Motor vehicles: Number owned _____.

<u>Year</u>	<u>Make/Model</u>	<u>Market Value</u>	<u>Lienholder</u>	<u>Balance Owed</u>	<u>Separate or Marital</u>

b. Household Furnishings:

<u>Fair Market Value</u>	<u>Lienholder</u>	<u>Balance Owed</u>	<u>Monthly Payments</u>	<u>Separate or Marital</u>

c. Bank Accounts:

<u>Bank</u>	<u>Type of Account</u>	<u>Balance</u>	<u>Separate or Marital</u>

d. Stocks, Bonds & Other Intangibles:

<u>Shares</u>	<u>Company</u>	<u>Total Value</u>	<u>Separate or Marital</u>

e. Other property of significant value, e.g., riding mower, tools, equipment, insurance cash value, boat, motorcycle, retirement plans, etc.:

<u>Item</u>	<u>Fair Market Value</u>	<u>Lienholder</u>	<u>Balance</u>	<u>Payments</u>	<u>Separate or Marital</u>

6. a. He/she owes the following debts:

<u>Creditor</u>	<u>Balance Owed</u>	<u>Monthly Payments</u>	<u>Security</u>	<u>Separate or Marital</u>

b. The spouse owes the following debts:

<u>Creditor</u>	<u>Balance Owed</u>	<u>Monthly Payments</u>	<u>Security</u>	<u>Separate or Marital</u>
-----------------	---------------------	-------------------------	-----------------	----------------------------

7. He/she submits the following as an estimate of the necessary monthly expenses for support of himself/herself (and children where applicable):

ITEM

Rent/House Payment \$ _____
Utilities (gas, electricity, water) \$ _____
Telephone \$ _____
Internet \$ _____
School Lunches (Children) \$ _____
School Supplies (Children) \$ _____
Work Lunches \$ _____
Automobile Payments \$ _____
Transportation to & from work \$ _____
Clothing Replacement (self) \$ _____
Clothing Replacement (Children) \$ _____
Laundry & Dry Cleaning \$ _____
Child Care While Working \$ _____
Haircuts and Beauty Shop \$ _____
Insurance \$ _____
Medical & Dental Expense \$ _____
Drugs & Medicines \$ _____
Furniture Payments \$ _____
Groceries \$ _____
Miscellaneous Expenses \$ _____
TOTAL EXPENSES \$ _____

Under penalty of perjury, I make oath that the information set forth above is true and correct to the best of my knowledge, information and belief.

This the day of _____, 20____.

Plaintiff/Defendant

STATE OF TENNESSEE:

COUNTY OF _____:

Subscribed and sworn before me on this the day of _____, 20____.

Notary Public

My commission expires:

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing has been furnished to _____, attorney for the Plaintiff/Defendant at his/her last known address of _____ by first class mail on this the _____ day of _____, 20____.

Attorney BPR#
Address/Phone#

APPENDIX C

**IN THE CIRCUIT/CHANCERY COURT FOR SULLIVAN COUNTY AT
KINGSPORT/BRISTOL/BLOUNTVILLE, TENNESSEE**

PLAINTIFF,
v.

CASE NO. _____

DEFENDANT.

**ISSUES AND PROPOSALS OF PARTIES
IN COMPLIANCE WITH RULE 17**

This statement is submitted by the) Plaintiff/Defendant)/

1. The contested issues in this case are:

_____ Party to whom the Divorce should be granted

_____ Division of Co-Parenting Time with Children

_____ Payment of Child Support

_____ Payment of Alimony

_____ Division of Retirements or Other Assets Requiring Entry of a QDRO

_____ Payment of Attorney's Fees

_____ Payment of Court Costs

2. The party completing this form will present the following witnesses (list names, addresses, telephone numbers, and a general statement as to the subjects to which the witness will testify):

3. Income and expenses:

The Plaintiff is employed at _____ (include address).

The Plaintiff's weekly gross income is \$ _____ and the Plaintiff's net income per week is \$ _____. Sources of additional income are: _____

_____.

The Defendant is employed at _____ (include address).
The Defendant's weekly gross income is \$ _____ and the Defendant's net income per
week is \$ _____. Sources of additional income are: _____.

4. The party completing this form would show that the estimated expenses for this party
are:

EXPENSES:

Rent/House Payment	\$ _____
Utilities (gas, electricity, water)	\$ _____
Cable Television	\$ _____
Telephone	\$ _____
Internet	\$ _____
Automobile Payments	\$ _____
Clothing Replacement (where there are minor children, for parent only)	\$ _____
Child care while working	\$ _____
Health Insurance	\$ _____
House Insurance	\$ _____
Car Insurance	\$ _____
Medical & Dental Expenses (where there are minor children, for parent only)	\$ _____
Furniture Payments	\$ _____
Expenses for children not covered above	\$ _____
Miscellaneous Expenses	\$ _____
TOTAL EXPENSES	\$ _____

5. The party completing this form claims the following as separate property:

Item of Property

Fair market value asserted by this party

6. The party completing this form asserts that the following is a complete list of marital property with current fair market values:

<u>Item of Property</u>	<u>Fair market value asserted by this party</u>	<u>Should be awarded to:</u> <u>Husband</u> <u>Wife</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

7. The party completing this form asserts that the following is a complete list of marital debts and current pay-offs:

<u>Debt</u>	<u>Pay-off</u>	<u>Debt should be paid by:</u> <u>Husband</u> <u>Wife</u> <u>Parties Equally</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Under penalty of perjury, I hereby swear that the statements above are correct to the best of my knowledge, information and belief.

[Party completing this form]

Pursuant to the provisions of T.R.C.P. Rule 11, I hereby certify that the matters contained herein have been represented to me to be correct, and as counsel for the party and officer of the Court, I present them for consideration by the Court.

Attorney

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing has been furnished to _____, attorney for the Plaintiff/Defendant at his/her last known address of _____ by first class mail on this the _____ day of _____, 20__.

Attorney	BPR#
Address	
Phone#	

RULE 18

COURT POLICY FOR INCLEMENT WEATHER

The Court policy regarding inclement weather is:

Judge McLellan, Judge Rogers and Chancellor Moody will not hold court for jury or non-jury civil matters:

- A. *In **Kingsport**, if City of Kingsport schools are closed*
- B. *In **Bristol**, if City of Bristol, TN schools are closed*
- C. *In **Blountville**, if Kingsport OR Bristol city schools are closed.*

This policy is applicable to Civil courts only.

RULE 19

FEES FOR FIDUCIARIES AND ATTORNEYS

Terms Defined: An interested party for this Rule is defined as all beneficiaries of an estate whose interest bears the responsibility for estate expenses. The interest of a beneficiary who is not impacted by any fees charged, such as a specific devisee of a solvent estate, does not need to consent.

No fiduciary (executor, administrator, trustee, conservator or guardian) shall pay a fee to himself, herself, itself, or an attorney without complying with these rules.

FIDUCIARIES' FEES

19.01. Fee forms. Upon being appointed or qualified, ALL fiduciaries shall sign a form stating whether or not they intend to charge a fee. **Failure to sign a "Fee Form" shall be considered a waiver of a fiduciary fee.** If a fee is charged, the method of computing the fee must be stated, and time records must be provided. Except as provided below, no fiduciary fee shall be paid without first obtaining an Order signed by the Clerk and Master or Judge/Chancellor approving the fee.

19.02. Sworn petition. Except as provided below, the fiduciary shall file a detailed sworn petition setting forth the activities performed as a fiduciary with the time expended on each activity. The petition should also state the total amount of fee sought and the method used in computing the amount of the fee.

19.03. Copy of sworn petition; notice. The fiduciary shall serve a copy of the petition for a fee upon all interested parties along with a notice of time and date when the fiduciary will appear and seek approval of the fees.

19.04. Reasonable compensation; factors. The fiduciary may receive reasonable compensation for services rendered. The Clerk and Master or Judge/Chancellor shall set the compensation to be paid, taking into account: the complexity of the property of the estate; the amount of time the fiduciary spent performing his duties; the expertise of the fiduciary; whether the fiduciary had to

take time away from his normal occupation; whether the services performed are those the fiduciary should have normally provided had there been no need for a fiduciary; and, such other matters as the Court deems appropriate.

19.05. Petition; agreed fee. The petition shall state the amount of the fee sought. A detailed statement of activities performed shall not be required and a hearing shall not be necessary when the petition is accompanied by one of the following:

(a) In the event a written contract was executed between the testator and executor or the settlor and the trustee with specific fee arrangements, a copy of the contract and a sworn statement setting forth compliance with the contract must be provided, or

(b) In the event that compensation is fixed under the terms of the Will, a sworn statement setting forth compliance with the Will, or

(c) Written consent of all legally competent and interested parties acknowledging that they have received a copy of the sworn petition; that they were advised of the basis of the fee, the amount of the fee; the option of seeking court review of the fee and that they approve the fee.

19.06. Accounting. No petition shall be required and a hearing shall not be necessary for fiduciary fees paid during a period covered by an Accounting when the Accounting or Statement in Lieu of Accounting is accompanied by written consents of all legally competent interested parties who acknowledge that they were advised of the basis of the fee, the amount of the fee, the option of seeking Court review of the fee and that they approve the fee.

19.07. Minors and Incompetents.

IF MINORS OR INCOMPETENTS ARE INTERESTED PARTIES, THE NOTICE, DETAILED STATEMENT OF ACTIVITIES, AND HEARING PROVISIONS SHALL APPLY IN EVERY CASE.

19.08. Petition: No time records required. In cases involving fiduciary fees totaling one thousand five hundred dollars (\$1,500.00) or less, time records shall

not be necessary and a petition setting forth the activities performed shall be sufficient without a hearing.

19.09. Executors, administrators, trustees. An executor, administrator or trustee may petition the Court at any time after the commencement of the estate or trust for approval of an interim or final fee. Executors, administrators and trustees are encouraged to file for fees on an annual basis.

19.10. Set fee prior to tax filings. An executor or administrator may petition the Court to fix the amount of the fee prior to the filing of the federal estate or state inheritance tax returns. The petition shall contain an estimate of the services and time to be expended before closing the estate.

ATTORNEYS' FEES

19.11. Sworn petition. Except as provided below, a detailed sworn petition shall be filed by the attorney setting forth the activities performed, supported by time records, and stating the total fee requested and the basis used in computing the amount of the fee. A copy of the petition for attorney's fees shall be served on all interested parties along with a notice of time and date that the attorney will appear before the Clerk and Master or Judge/Chancellor to seek approval of the attorney's fees. The Clerk and Master or the Judge/Chancellor shall base the fee on the factors as set forth in the Rules of Tennessee Supreme Court, Rule 8, DR 2-106 as follows ("Factors to be considered as guides in determining the reasonableness of a fee include the following"):

- (a) The time and labor required, the novelty and difficulty of the questions involved and the skill requisite to perform the legal service properly;
- (b) The likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the attorney;
- (c) The fee customarily charged in the locality for similar legal services;
- (d) The amount involved and the results obtained;
- (e) The time limitations imposed by the clients or by the circumstances;

- (f) The nature and length of the professional relationship with the client;
- (g) The experience, reputation and ability of the attorney(s) performing the services.
- (h) Whether the fee is fixed or contingent.

19.12. Accounting. No petition shall be required and a hearing shall not be necessary for fees paid during a period covered by an Accounting when the Accounting or Statement in Lieu of Accounting is accompanied by written consents of all legally competent interested parties who acknowledge that they were advised of the basis of the fee, the amount of the fee and the option of seeking Court review of the fee; and that they approve the fee.

19.13. Minors and Incompetents. If minors or incompetents are interested parties, the notice, detailed statement of activities, and hearing provisions apply in every case.

19.14. Petition: No time records required. In estates involving an attorney's fee totaling one thousand five hundred dollars (\$1,500.00) or less, time records shall not be necessary and a petition setting forth a list of legal activities performed shall be sufficient without a hearing.

19.15. Setting fee prior to tax filings. An attorney may petition the Court to fix the amount of the attorney's fees prior to the filing of the federal estate of Tennessee inheritance tax return. The petition shall contain an estimate of the services and time to be expended before estate is closed.

19.16. No-fee statement. If an attorney fee is not charged, a statement must be provided to the Court that no attorney fee is charged.

APPENDIX D

IN THE CHANCERY COURT FOR SULLIVAN COUNTY
AT BLOUNTVILLE, TENNESSEE

IN THE MATTER OF:

No. _____

ESTATE OF: _____

FEE STATEMENT OF FIDUCIARY

_____ I WILL NOT seek a fee as Fiduciary (Administrator, Executor, Conservator, Guardian or Trustee) in this case.

_____ I WILL seek a fee as Fiduciary in this case. If my fee is based on a contract, a copy of the contract is attached to this form.

By signing this form, I acknowledge that I cannot pay myself a fee until an Order from the Court is signed. A Petition for a fee must be filed with the Clerk and Master before the Court will consider a fee. The contents of the Petition shall comply with the Rules of Local Practice.

DATE: _____

Signature of Fiduciary

Printed Name of Fiduciary

APPENDIX D

IN THE CHANCERY COURT FOR SULLIVAN COUNTY
AT BLOUNTVILLE, TENNESSEE

IN THE MATTER OF:

No. _____

ESTATE OF: _____

CONSENT TO FIDUCIARY'S FEE

As an interested party in the Estate of _____, I

acknowledge that:

Initials of Party

(1) I have received a copy of the Sworn
Petition or Accounting. _____

(2) I have been advised of the basis upon which
fiduciary's fees are to be charged, the amount
of the fees requested during the period covered by
this Accounting or Statement in Lieu of
Accounting, and the option of seeking Court
review of the fees. _____

(3) I hereby approve the fees in the amount of
\$_____. _____

Date

Beneficiary Signature

Witness

APPENDIX D

IN THE CHANCERY COURT FOR SULLIVAN COUNTY
AT BLOUNTVILLE, TENNESSEE

IN THE MATTER OF:

No. _____

ESTATE OF: _____

CONSENT TO ATTORNEY'S FEES

As an interested party in the Estate of _____, I

acknowledge that:

Initials of Party

(4) I have received a copy of the Accounting or Statement in Lieu of Accounting. _____

(5) I have been advised of the basis upon which attorney fees are to be charged, the amount of the fees requested during the period covered by this Accounting or Statement in Lieu of Accounting, and the option of seeking Court review of the fees. _____

(6) I hereby approve the fees in the amount of \$_____. _____

Date

Beneficiary Signature

Witness

APPENDIX D

IN THE CHANCERY COURT FOR SULLIVAN COUNTY
AT BLOUNTVILLE, TENNESSEE

IN THE MATTER OF:

No. _____

ESTATE OF: _____

PETITION FOR FIDUCIARY FEE

_____ (Conservator, Guardian,
Executor, Administrator, Trustee) of the Estate of _____,
respectfully petitions this Court to set a reasonable fiduciary's fee for services rendered to the
Estate for the period of _____ to _____ in the
amount of \$ _____. In support of this Petition, attached is the
fiduciary's affidavit outlining and describing the services rendered and the expenses incurred in
representing the interests of the Estate.

Respectfully submitted,

_____ for

the Estate of _____

APPENDIX D

IN THE CHANCERY COURT FOR SULLIVAN COUNTY
AT BLOUNTVILLE, TENNESSEE

IN THE MATTER OF:

No. _____

ESTATE OF: _____

AFFIDAVIT

STATE OF TENNESSEE
COUNTY OF SULLIVAN

The Affiant, _____ having been duly sworn

according to law, deposes and says as follows:

1. That I am (Trustee, Conservator, Administrator, Executor, Guardian) of the Estate of _____ .
2. That the attached statement accurately itemizes the services rendered by me, the times expended, and the hourly rate charged. My hourly rate charged was \$_____ during this period of time, OR the method of computing my fee is as follows:
_____ .
3. That I respectfully requests approval for reasonable compensation for all services rendered as detailed on the accompanying statement..
4. That the value of this gross probate estate is approximately \$_____, and the value of the gross taxable estate is approximately \$_____ (if applicable).

5. That the written consents of all interested parties who are adults and affected by these fees have been obtained and are attached hereto.

This the _____ day of _____, _____.

STATE OF TENNESSEE
COUNTY OF SULLIVAN

SWORN TO AND SUBSCRIBED BEFORE ME, on this the __ day of _____,
_____.

NOTARY PUBLIC (CLERK)

My commission expires:

APPENDIX D

IN THE MATTER OF:

No. _____

ESTATE OF: _____

STATEMENT OF ACTIVITIES AND TIME

DATE	ACTIVITY	TIME
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Total Hours _____

Total Hours X Hourly Rate of _____ x \$ _____ = \$ _____

Expenses _____

+ _____

Total Expenses \$ _____

Total \$ _____

APPENDIX D

IN THE CHANCERY COURT FOR SULLIVAN COUNTY
AT BLOUNTVILLE, TENNESSEE

IN THE MATTER OF:

No. _____

ESTATE OF: _____

PETITION FOR ATTORNEY'S FEE

_____ of the law firm of

_____, Attorney for the Estate of _____

respectfully petitions this Court to set a reasonable attorney's fee for legal services and expenses

rendered to the Estate for the period of _____ to

_____, in the total amount of \$ _____.

An affidavit is submitted outlining and describing in support of this Petition the legal services

rendered and expenses incurred in representing the interests of the Estate.

Respectfully submitted,

Attorney for the Estate of _____

OF COUNSEL:

NAME:

ADDRESS:

PHONE NUMBER:

BPR No:

APPENDIX D

IN THE CHANCERY COURT FOR SULLIVAN COUNTY
AT BLOUNTVILLE, TENNESSEE

IN THE MATTER OF:

No. _____

ESTATE OF: _____

AFFIDAVIT

STATE OF TENNESSEE
COUNTY OF SULLIVAN

The Affiant, _____ having been duly sworn
according to law, deposes and says as follows:

6. That _____ represents the Estate of
_____ and that I am an attorney of said
firm.
7. That the attached statement accurately itemizes the services rendered by members of
the firm, the times expended, and the hourly rate charged for each of us at the
inception of this representation. My hourly rate charged was \$_____ during this
period of time and was the hourly rate normally charged by me for such legal
services, and that other persons employed by the firm billed at their normal and
customary hourly rate.
8. This is a Final/Interim (strike one) petition for fee.

9. That I respectfully request approval of reasonable compensation for all services rendered as detailed on the accompanying statement.

10. That the value of this gross probate estate is approximately \$ _____, and the value of the gross taxable estate is approximately \$ _____ (if applicable).

11. That the written consents of all interested parties affected by these fees have been obtained and are attached hereto. There are no minors or incompetents who are interested parties. (strike out if not applicable).

This the ____ day of _____, _____.

Attorney's Name

STATE OF TENNESSEE
COUNTY OF SULLIVAN

SWORN TO AND SUBSCRIBED BEFORE ME, on this the __ day of _____,
_____.

NOTARY PUBLIC

My commission expires:

RULE 20

PROBATE

- A. The Clerk and Master may provide *pro se* persons forms in estates not exceeding \$50,000 net. This amount includes both real and personal property, including property that does not pass through probate. This rule does not apply to insolvent estates.
- B. Attorneys may file one notice of continued administration without seeking court approval.
- C. *An interested person(s)/party(s) for this rule is defined as: heirs, devisees, children, spouses, creditors, beneficiaries, and any others having a property right in or claim against the decedent.*

Rule 21

CLERK AND MASTER PROCEEDINGS

Unless otherwise ordered by the Court, the Clerk and Master is empowered to hear, without a specific order of reference, the following matters:

- (1) applications for letters testamentary and letters of administration,
- (2) adjudication of claims and exceptions thereto,
- (3) allowances to surviving spouse and family,
- (4) assignments of homestead,
- (5) proceedings for elective share pursuant to T.C.A. § 31-4-101 et seq., and
- (6) all accounts and settlements.

The Clerk and Master shall make a written report of his/her findings and actions on the above matters. All actions of the Clerk and Master shall be subject to review by the Court upon exceptions filed within ten (10) days and a motion for review. If no exceptions are filed within ten (10) days, counsel or the Clerk and Master shall lodge an order of confirmation.

RULE 22

USE OF DEPOSITIONS FOR EVIDENCE AT TRIAL

This rule applies to all jury trials and non-jury trials.

Counsel for each party shall review all depositions and remove all irrelevant and repetitive testimony and all discussions between counsel. Counsel shall then designate and exchange deposition testimony intended for use at trial, such designation to be made in writing by page and line number, and make an attempt to resolve all objections by agreement. All objections shall be made by filing a Motion In Limine with the Court. Otherwise, the objection(s) are waived. All objections to designated testimony must be made in good faith and are subject to T.R.C.P. Rule 11 sanctions.

With respect to any witness who will appear at trial by stenographic or video deposition, the party intending to offer the witness shall serve on opposing parties a written designation at least thirty (30) days before trial, by page and line number, of those portions of the deposition the offering party intends to use.

At least twenty-five (25) days before trial, **the opposing party shall serve on the offering party** all objections to the designated testimony (such objections to be made by Motion In Limine filed with the Court) and counter-designations, by page and line number, of all additional portions of the depositions.

At least twenty-one (21) days before trial, **the party offering the witness shall serve upon the opposing party** any objections to the designated testimony by the opposing party (such objections to be made by Motion In Limine filed with the Court) and a written designation, by page and line number, of any additional portions of the deposition the **offering party** intends to use at trial for evidence. At least fourteen (14) days before trial, counsel shall consult, either in person, by telephone, or electronically and attempt to resolve all objections to all proposed deposition testimony.

If all objections to proposed deposition testimony are not resolved by agreement, counsel filing all objections shall have such motion heard at least seven (7) days before trial at which time the Court will rule on the motion. Counsel shall edit all video depositions and/or stenographic depositions commensurate with the rulings of the court on each objection so there will be a "clean" read of the deposition at trial.

At least two (2) days before trial, counsel intending to offer deposition testimony at trial, must provide a copy of the deposition as edited to the Judge/Chancellor in chambers. Deadlines may only be waived by court order. Nothing in this rule shall prohibit the parties from stipulating in writing the testimony of any witness.

RULE 23

FOREIGN LANGUAGE INTERPRETERS

The Courts of the Second Judicial District recognize that language can be a barrier to understanding and exercising one's legal rights, and to securing meaningful access to the judicial system. The standards set forth in Tennessee Supreme Court Rule 42 regarding the provisions for interpreters for persons with Limited English Proficiency (LEP) shall be followed.

If the court finds a foreign language interpreter is necessary in a particular case, counsel shall review the Roster of Certified and Registered Spoken Foreign Language Court Interpreters in Tennessee found on the AOC website at: <http://www.tsc.state.tn.us/geninfo/programs/Interpreters/rosterindex.htm> within 5 days of the court requiring an interpreter.

If there is not an interpreter listed for the language needed on the Roster of Certified and Registered Spoken Foreign Language Court Interpreters, counsel shall contact the Administrative Office of the Courts for assistance.

- (a) An interpreter shall be obtained according to the preference listed below:
 - 1. State certified court interpreter;
 - 2. State registered court interpreter;
 - 3. Non-credentialed court interpreter.

- (b) Once the interpreter has been obtained, counsel shall advise the court and an order of appointment shall be filed. Generally, the costs of interpreter services in civil cases shall be taxed as court costs pursuant to T.R.C.P. 54.

All persons, agencies and organizations who administer, supervise use, deliver, or attempt to become credentialed to deliver spoken foreign language interpreting services to the judicial system are subject to Tennessee Supreme Court Rule 41.

RULE 24

REQUESTS FOR ACCOMMODATIONS BY

PERSONS WITH DISABILITIES

It shall be the policy of the courts of the Second Judicial District to assure that qualified individuals with disabilities have equal and full access to the judicial system. Nothing in this rule shall be construed to impose limitations or to invalidate the remedies, rights and procedures accorded to any qualified individuals with disabilities under state or federal law.

"Qualified individuals with disabilities" means a person covered by the Americans with Disabilities Act of 1990 (42 U.S.C. 12101, et seq.) and includes individuals who have a physical or mental impairment that substantially limits one or more of the major life activities or who have a record of such impairments or who are regarded as having such impairment.

"Applicant" means any Judge/Chancellor, lawyer, party, witness, juror or any other individual with an interest in attending any proceeding before any court of the Second Judicial District.

Accommodations may include, but are not limited to, making reasonable modifications in policies, practices and procedures; furnishing auxiliary aids and services at no charge to the qualified individuals with disabilities, which are not limited to equipment, devices, materials in alternative formats, and qualified interpreters or readers; and making each service, program or activity, when viewed in its entirety, readily accessible to and usable by qualified individuals. While not requiring that each existing facility be accessible, the standard known as "program accessibility" must be provided by methods including alteration of existing facilities, acquisition or construction of additional facilities, relocation of a service or program to an accessible facility or provision of services at alternate sites.

Confidentiality applies to the identity of the applicant in all oral or written communications, including all files and documents submitted by an applicant as part of the application process. The following process for requesting accommodations is established:

1. Applications requesting accommodations pursuant to this rule may be presented *ex parte* in writing on a form approved by and provided by the court, or orally, as the court may allow. Applications should be made at the designated Office of the Clerk where the proceeding will take place or to the judicial officer who will preside over the proceeding.

2. Applications shall include a description of the accommodation(s) sought along with a statement of the impairment(s) that necessitates such accommodation(s). The court may require the applicant to provide additional information about the qualifying impairment(s).

3. Applications should be made as far in advance of the requested accommodation implementation date as possible, and in any event, should be made no less than five days prior to the requested implementation date. The court may, in its discretion, waive this requirement.

4. Upon request, the court shall place under seal the identity of the applicant as designated on the application form and all other identifying information provided to the court.

5. An applicant may make an *ex parte* communication with the court. Such communications shall deal only with the accommodations the applicant's disability requires and shall not deal in any manner with the subject matter or merits of the proceeding before the court.

6. In determining whether to grant an accommodation and the specific accommodation to grant, the court shall consider, but is not limited by, the provisions of the Americans with Disabilities Act of 1990, amendments and related state and federal laws.

7. The court shall inform the applicant in writing of findings of fact and orders, as may be appropriate, that the request for accommodation(s) is granted or denied, in whole or in part, and the nature of the accommodation(s) to be provided, if any.

8. An application may be denied only if the court finds that:

- (a) The applicant has failed to satisfy the requirements of this rule;
- (b) The requested accommodation(s) would create an undue financial and/or administrative burden on the court; or
- (c) The requested accommodations(s) would fundamentally alter the nature of the service, program or activity.

Any participant in the proceeding, in which an accommodation(s) has been denied or granted, may seek review of a determination made by a presiding judge or any other judicial officer of a court within ten (10) days of the date of notice of denial by filing a petition for extraordinary relief in a court of superior jurisdiction. The accommodations by the court shall commence on the date indicated in the notice of accommodations and shall remain in effect for the period specified in the notice of accommodations. The court may grant an accommodation(s) for indefinite periods of time or for a particular matter or appearance.

Copies of this rule shall be available from all Clerks of Court, and shall be posted in the public area of the Court facilities.