

**STATE OF TENNESSEE
FIRST JUDICIAL DISTRICT**

LOCAL RULES

Circuit, Chancery and Criminal Courts

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RULE 1.
RULES OF COURT AND CONDUCT

1.01. APPLICATION. These local rules replace all previous local rules and shall become effective September 1, 2007. These rules govern practice in the Chancery, Circuit and Criminal Courts of the First Judicial District and apply to all persons/entities who appear before the court, regardless of capacity (i.e., attorneys, parties, witnesses, etc.). The Tennessee Rules of Civil Procedure and the Tennessee Rules of Criminal Procedure shall control in the event of any conflict between them and the Local Rules. Any reference to "judge" shall include "chancellor".

1.02. CONSTRUCTION. These rules shall be construed to secure a just and speedy determination of all matters. A judge may suspend any of these rules whenever justice requires.

1.03. CONDUCT, REPRESENTATION AND ADMISSION.

A. 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.

B. Familiarity with Participants. During trial, attorneys shall not exhibit familiarity with witnesses, jurors, or opposing counsel. The use of first names, except with child witnesses, shall be avoided. 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 of a case without express consent of the court.

C. Approaching the Bench. Attorneys shall not approach the bench without court approval. Attorneys shall not lean on the bench nor appear to engage the court in conversation in a confidential manner.

D. 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 on record, and should respectfully await the completion of the statement or opinion before pointing out objectionable matter. When objection is made to a question asked by an attorney, the attorney should refrain from asking the witness another question until the court has had an opportunity to rule upon the objection. The objecting attorney shall state the legal grounds without argument or discussion except by leave of court.

E. Addressing Witnesses or Jurors. Attorneys and *pro se* parties shall stand while examining witnesses or otherwise addressing the court or jury; however, exception may be made in the court's discretion. When attorneys are examining witnesses or addressing the jury, they shall not approach the witness or jury without the court's permission.

F. Notice of Appearance. Only an attorney who has entered an

appearance in a case will be counsel of record. Entry of appearance may be by filing a pleading on behalf of a party, filing a formal notice of appearance, appearance at an arraignment or plea bargain deadline, or written notice filed with the clerk.

G. Withdrawal of Counsel. No attorney shall be allowed to withdraw except by order of the court upon motion and after notice to the client and opposing parties. The order shall specify the reason for withdrawal and, if the matter is on the active docket, provide the date by which the party shall notify the court of new counsel of record or be considered *pro se*. Withdrawal of counsel shall be made so as not to delay trial. All motions to withdraw shall state the trial date, or that no trial date has been set and shall comply with the applicable provisions of the Code of Professional Responsibility.

H. Attire. All male attorneys are required to wear jackets and ties. Female attorneys are required to wear appropriate clothing during the presentation of a case.

Witnesses and spectators must wear appropriate clothing. Shorts, swim suits, leotards, low cut or open shirts or blouses, bare feet, or other inappropriate attire are not permitted in the courtroom.

I. Forbidden Conduct. There shall be no tobacco products in the courtroom or at the taking of a deposition. There shall be no food, beverages, or gum in the courtroom; however, water is permitted at counsel table. Other than

books and papers related to the suit at trial, books or newspapers shall not be read in the courtroom.

J. Admission to Practice.

1. 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 any pleading or motion filed with the court. Upon making an initial appearance, an attorney will be formally introduced to the court and their qualifications vouched for by a member of the bar of this court.

2. Non-Resident Attorneys. Attorneys residing out of the State of Tennessee and wishing to appear before a court of this district shall comply with Sup. Ct. Rules 19 and 20 before making any appearance and, upon compliance, may appear as the court directs.

K. 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 rendered in compliance with Sup. Ct. Rule 8, RPC 1.5. An attorney appearing at arraignment in a criminal case is presumed to have made satisfactory arrangements for the payment of fees and may not appear solely for arraignment or the reduction of bond and later withdraw from representation for non-payment of fees.

L. Signing of Pleadings, Motions and Proposed Orders. All pleadings, motions and proposed orders which are signed by an attorney, in addition to the attorney's B.P.R. number, shall include the attorney's mailing address, telephone and fax numbers, and email address, and identify the person(s) whom they represent.

RULE 2.
TIMES AND PLACES FOR MEETING OF COURT

2.01. COMMENCEMENT TIME. Both civil and criminal court will open promptly at 9:00 a.m. unless otherwise ordered by the court. Criminal court will open at 8:30 a.m. on jury trial days for certain motion hearings as provided in Rule 2.03(C)2.

2.02. CALENDAR. A schedule indicating where the respective judges will be and when the respective courts are in session will be published every four (4) months. Copies will be available in each office of the circuit court clerk and clerk and master. The schedule will also indicate 1) contested domestic days; 2) civil and criminal miscellaneous days; 3) state child support days; 4) docket soundings; and 5) grand jury and reporting days in criminal court. It is incumbent upon attorneys practicing in this district to inform themselves of the schedule.

2.03. CIVIL COURT. Civil court shall consist of both chancery court and circuit or law court cases, and actions may be filed in such courts as provided by

law. Four-month docket schedules for said courts will be maintained in the offices of the clerk & master and the circuit court clerk in each county of this district.

Chancery court shall meet at such times and at such places as determined by the chancellor and as reflected on the four-month chancery court docket schedule. The judges holding court in the circuit or law courts in a particular county will set jury cases for trial at docket soundings conducted in each county once every four months as set forth on the four-month docket schedules. Nonjury cases for circuit and law courts will be preset by the clerks.

A. Schedule. As nearly as practicable, circuit and law court will be as follows:

1. Carter County. Beginning the first Monday in March, July and November of each year and terminating at the end of April, August and December respectively.

2. Johnson County. Beginning the first Monday in January, May and September of each year and continuing for a period of two consecutive weeks, with any special or additional case settings as needed in February, June and October, respectively, as determined by the judge then holding court.

3. Unicoi County. Beginning the third Monday in January, May and September of each year and continuing for three consecutive weeks, with any special or additional case settings as needed in February, June and October, respectively, as determined by the judge then holding court.

4. Washington County. *Johnson City* - Court will be in continuous session. Note: the civil court in Johnson City is "The Law Court at Johnson City, Tennessee". ***Jonesborough*** - Beginning the second Monday in February and October, and the third Monday in June, and continuing for two weeks, or longer if needed.

B. Miscellaneous Days. Miscellaneous days are for the purpose of expediting trials. The morning sessions will consist of uncontested matters and miscellaneous non-domestic motions. No matter will be calendared which will take more than fifteen (15) minutes to each party, but no more than thirty (30) minutes total, nor any other type action calendared without the prior approval of the sitting judge. The clerk and master in each county of the district will prepare a calendar of chancery court cases to be heard by the chancellor on miscellaneous days, and the circuit court clerk will likewise prepare a calendar of circuit court cases to be heard by the appropriate circuit court judge.

Cases must be placed on the calendar by noon of the working day preceding the miscellaneous day. Cases will be heard in the order calendared. No case from any other court will be heard without prior approval of the sitting judge, and the attorney shall furnish the file for such case to the court.

Miscellaneous days for circuit and law courts will be scheduled as closely as practicable as follows:

1. Carter County. The second and fourth Mondays of each month.

2. **Johnson County.** The first Monday of each month.

3. **Unicoi County.** The third Monday of each month except for June when it will be specially set.

4. **Washington County. *Johnson City*** - The first and third Mondays of each month. ***Jonesborough*** - The second Tuesday of each month.

2.04. CRIMINAL COURT.

A. **Grand Juries.** Grand juries will be empaneled twice a year in each county of the district. The judge holding court for jury orientation on the first date of the year that a new jury reports in each county, and the first new jury reporting on or after May 1st of each year will empanel a new grand jury in each county.

B. **Schedule.** As nearly as practicable, criminal court will be as follows:

1. **Carter County.** Beginning the first Monday in January, March (two weeks), May, the second Monday in July (two weeks), the first Monday in September and November (two weeks), and at such other times as determined by the judges holding criminal court.

2. **Johnson County.** Beginning the third Monday in January, May and September, and at such other times as determined by the judges holding criminal court.

3. **Unicoi County.** Beginning the second Monday in February, the third Monday in June and the second Monday in October of each year and at

such other times as determined by the judges holding criminal court.

4. **Washington County.** Criminal court is in continuous session in Jonesborough except when civil court is in session (two weeks beginning the second Monday in February and October, and the third Monday in June).

C. **Miscellaneous Days.** Miscellaneous days will be held in the following manner:

1. **Schedule.** Miscellaneous days will be held on Friday of each week when criminal court is in session in a particular county of the district and on such other days set by the judges holding Criminal Court.

2. **Special Matters.** The criminal court judges will hear short motions or urgent matters at 8:30 a.m. in any county before a regularly scheduled jury trial begins at 9:00 a.m. The judge and a court reporter will be available without prior notice at 8:30 a.m. on days jury trials are held in Carter and Washington counties. In Johnson and Unicoi Counties, counsel must request an 8:30 a. m. setting by contacting the judges' secretaries. All pretrial motions should be disposed of on the regular miscellaneous day and any late motions or problems regarding a jury trial will be heard at 8:30 a.m. before jury selection begins at 9:00 a.m. on the day of the trial or such matters are waived.

3. **Motions Generally.** At arraignment, the judge will set a day for pretrial motions to be heard. The clerk of the criminal court will set all other motions on the first miscellaneous day following the filing until there are thirty

(30) cases set on such miscellaneous day, after which motions will be set on the next regularly scheduled miscellaneous day. Counsel must obtain approval from a judge before setting any motion which will take more than one-half hour for hearing. The clerk of the criminal court in each county will keep a calendar for that county.

**RULE 3.
CIVIL SUBPOENAS, CRIMINAL PROCESS, ARRAIGNMENT AND
SCHEDULING**

3.01. SUBPOENAS FOR DEPOSITIONS OR TRIAL. Subpoenas should be issued in advance of depositions or trial date as follows: a) in-county witnesses - five (5) days; b) out-of-county witnesses - ten (10) days; and c) out-of-district witnesses - fifteen (15) days. (See Rule 4.03.B.) When an attorney issues a subpoena previously signed by the clerk, but otherwise blank, the attorney shall file the completed clerk's copy within twenty-four (24) hours of service.

3.02. CRIMINAL PROCESS. All persons who are bound over to await grand jury action will be instructed to report to the criminal court on reporting day. A reporting day shall be set for a date certain within two (2) weeks following the meeting of the grand jury by the appropriate criminal court judge. All appearance bonds will be made returnable to the same day.

3.03. CRIMINAL ARRAIGNMENT AND SCHEDULING. After an indictment has been returned, the court will hold a formal arraignment at the

reporting day or such later miscellaneous day to allow a defendant to retain counsel or allow appointed counsel to appear. Every defendant shall appear personally with counsel at arraignment unless such defendant has filed a written waiver of appearance pursuant to T.R.Cr.P. 43(c). For those defendants who plead not guilty in felony cases at the arraignment, the court will schedule either a trial date or a plea deadline as well as a date for motions to be heard. The plea deadline for misdemeanors which are bound over from general sessions court shall be the date of arraignment, and if there is not a guilty plea at arraignment, the case will be set for motions and trial. Both the defendant and counsel will appear on motions, plea deadlines, and other court dates set, without further notification. If a plea deadline is set, it is the affirmative duty of each attorney to communicate with the other attorney for the purpose of reaching a negotiated resolution of the case. The district attorney or assistant shall communicate an appropriate plea offer to defense counsel, or to the staff at defense counsel's office, at least seven (7) days before the date for plea deadline. Defense counsel shall then communicate such offer to the accused as soon as is reasonably possible.

RULE 4.
SETTING CASES FOR TRIAL, CONTINUANCES, DISPOSITION OF
SETTLEMENTS, AND PLEA BARGAINING AGREEMENTS

4.01. SETTING CASES FOR TRIAL.

A. Civil Cases.

1. Jury Cases. The clerk shall send all counsel of record and *pro se* parties notice of the docket sounding or trial and keep a copy of the notice in the court file. Jury cases may be preset by the trial judge. Preset cases should be ready for trial and will require exceptional circumstances for a continuance. At the docket sounding, cases may be set for trial or otherwise disposed of regardless of the non-appearance of counsel or the parties. A party requesting a jury shall place "JURY DEMAND" immediately below the civil action number on the cover page of the pleading or motion in which such request is made.

2. Non-jury Cases. The clerk shall prepare a calendar of non-jury cases which will be made available at the respective clerks' offices as soon as practicable before each docket sounding. The clerk shall mail a notice of the trial date to all *pro se* parties and attorneys who have not picked up a copy of the preset calendar and retain a copy of the notice in the court file. It is then the responsibility of counsel and *pro se* parties to appear for trial on the date set.

3. Special Settings. Special trial settings may be requested of a judge. However, only a judge can grant a special setting. Attorneys are encouraged to contact individual judges to schedule brief matters in chambers.

4. Appropriate Judge. Once a case is set before a judge, matters dealing with that case must be brought before that judge. When a case has not been set before a particular judge, matters regarding that case shall be brought to the attention of the judge currently holding court where the case is filed.

5. Length of Trial. The attorneys shall advise the clerk's office or the judge, as soon as practicable, if the case set for trial is reasonably anticipated to require more than one day for trial.

6. Out-of-County Trials. If a judge agrees to hear a case outside the county or courthouse where filed, the attorney shall be responsible for getting the court file to the judge at least twenty-four (24) hours prior to trial.

B. Criminal Cases. Criminal cases will be set for trial at the arraignment or plea deadline.

4.02. OBJECTING TO SETTING OF CASES. When a party objects to setting a case for trial because of incomplete trial preparation, the judge may establish a deadline for completion of trial preparation.

4.03. CONTINUANCES.

A. Court Order Required. Cases set for trial may be continued only by court order. A contested motion for a continuance shall be brought before the judge designated to hear the case as soon as practicable before the trial date. All orders granting continuances in civil cases shall contain the scheduled trial date, the judge before whom the case is set, the name of the party requesting the

continuance, the reason for the continuance and the number of previous continuances granted in the case.

B. Good Cause Required. Cases set for trial will be continued only for good cause, which shall not include absence of witnesses unless subpoenaed in accordance with Rule 3.01.

C. Costs Assessed. Upon granting a continuance, the court may award attorney fees, expenses, including compensation to witnesses for trial, lost income, and jury expenses, which may be taxed as court costs. The court may impose other sanctions in its discretion.

D. Trial Conflicts. In the event attorneys are notified of a trial setting on a date when they have a conflict caused by another court's previous trial setting, such attorney shall immediately notify the judge and other parties and prepare the order of continuance.

4.04. DISPOSITION OF CASES.

A. Purging Inactive Cases. It is the obligation of the judges and attorneys of the district to dispose of all cases in a timely, efficient, and just manner. To that end, judges shall require that all cases be set for trial within twelve (12) months of the filing date, if practicable, unless the court, by order, has directed a shorter or longer period for specific cases. To control the docket, the court may issue orders to prosecute, orders to show cause, and when appropriate, orders of dismissal. Such orders shall be mailed by the clerk to attorneys of record

and pro se parties, if their whereabouts can be reasonably ascertained.

B. Pretrial Deadlines. The court may set discovery and other pretrial deadlines to expedite the final disposition of cases.

C. Plea Deadlines. At arraignment in felony cases, the court will set a plea deadline date if a defendant wishes to negotiate with the State regarding a disposition of the case. That date shall be the deadline for acceptance of a negotiated disposition. At the plea deadline date, if the case has not been disposed of, the court will set the case for trial. Upon the docketing of a case for trial, no negotiated plea agreement will be accepted by the court, unless for good cause shown.

4.05. SETTLEMENTS IN CIVIL CASES. Attorneys shall notify the clerk and judge as soon as practicable upon settling a case. If such notification is later than 3:00 p.m. the day preceding the trial, the court may award compensation to witnesses and assess it and the costs of the jury to a party or parties, if appropriate under the circumstances. All orders of settlement must state the trial date and the judge before whom the case was set, if applicable.

4.06. BANKRUPTCY. When a party to a lawsuit has filed for bankruptcy protection in the United States Bankruptcy Court, the attorney representing that party in the civil suit (or if none, the attorney in the case) shall advise the court as to the status of the bankruptcy proceeding not less than every six (6) months and shall also provide the court clerk with a copy of the notice from

the bankruptcy court showing the bankruptcy case number of the debtor, as well as a copy of the discharge of the debtor within thirty (30) days of discharge being granted.

**RULE 5.
MOTIONS (CIVIL AND CRIMINAL) AND CRIMINAL PLEAS,
ORDER FOR TRANSCRIPT**

5.01. CIVIL MOTIONS.

A. Hearings.

1. **Dispositive Motions.** All motions potentially dispositive of any issue in a case shall be scheduled for hearing by the attorney filing the motion at the next miscellaneous day after filing, or as soon thereafter as is practicable. Failure to obtain a hearing in a timely manner may be construed by the court as an abandonment of the motion and the court may refuse to consider same. The party filing such a motion shall set out in the motion whether a date for trial has been set and before whom the trial is set.

2. **Summary Judgment.** Motions for summary judgment shall be filed and served at least sixty (60) days before trial.

3. **In Limine.** Motions in limine shall be filed no less than three (3) business days before trial and set for hearing before the trial.

4. Special Settings. Special settings for motions which cannot be heard on a regularly scheduled miscellaneous day may be arranged with the appropriate judge.

B. Opposition to Motions. If a motion is opposed, a response to the motion must be filed. The response shall be made in writing and shall state with particularity the grounds for the opposition. If no opposition to the motion is filed, the motion will be considered unopposed. Responses to motions, including any opposing affidavits, depositions or briefs or any matter being presented in opposition to the motion, must be filed and furnished to opposing counsel at least two (2) business days in advance of the hearing, except for responses to motions for summary judgment which are governed by T.R.Civ.P. 56.

C. Recusal of Judge. Motions for recusal of a judge shall be made so as not to delay trial.

D. Orders from Motion Hearings. The prevailing party or designated attorney shall, in compliance with Rule 6, prepare and submit an order reflecting the decision in every motion hearing.

E. Non-suit where Motion for Summary Judgment Pending. In cases where a motion for summary judgment is pending, notice of a request to take a voluntary non-suit must be served on opposing counsel at least five (5) business days prior to the proposed hearing date.

F. Motions to alter or amend an order or a judgment. In any motion

to alter or amend an order or a judgment, a notice of the hearing date shall accompany the motion.

5.02. CRIMINAL CASES.

A. Motions. Any attorney or other person filing any motion must immediately mail to or otherwise provide opposing counsel and the judge's office with a copy of such motion and certify to the same on the original motion which is filed with the clerk.

B. Setting Cases for Motion Hearing. The judge, upon arraignment, will set a day for pretrial motions to be heard. Every matter which can be disposed of before trial must be presented on such miscellaneous day.

C. Motion Filing Deadline. All preliminary motions, including motions to dismiss and motions to suppress evidence as required by T.R.Cr.P. Rule 12, must be filed in writing at least seven (7) days before the date set for motion hearings, unless an extension is allowed by the court for good cause. Violation of this rule will authorize the court to enter a summary dismissal of any untimely motion.

D. Failure to Appear at a Motion Hearing. If the attorney or party filing the motion does not appear at a scheduled hearing on a motion or any other matter scheduled to be heard on the miscellaneous docket, the court may strike, overrule, or otherwise dispose of the motion.

RULE 6.
ORDERS AND JUDGMENTS

6.01. CIVIL CASES.

A. Preparation and Submission Unless the Court Directs

Otherwise. The attorneys for prevailing parties shall prepare orders which reflect the judge's rulings or the jury's verdict unless the judge otherwise directs. All orders shall be submitted to the judge for signature within thirty (30) days of the court's decision or jury verdict. Failure to comply with this provision may result in issuance of show cause orders.

B. Content. All orders shall comply with T.R.Civ.P. 58 and shall state in the first sentence the date of the Court's action. All orders shall state whether the case is set for trial and, if so, the date of the trial and before whom set. All orders of substitution of counsel shall not delay or prejudice the trial of the case. All final orders and judgments shall provide for the taxing of court costs. The last known address and telephone number of the party to whom costs are assessed shall be stated in the order. When the court orders a non-party (i.e., social agency, etc.) to make a report to the court, the order shall advise the non-party to include in their report the name of the court and the civil action number.

C. Approval. The attorney drafting the order shall serve it upon opposing counsel for approval within ten (10) business days of the court's decision or jury verdict. Opposing counsel shall either 1) approve the order and submit it to

the judge for signature within ten (10) business days of the receipt thereof, or 2) submit an alternate order and the original order to opposing counsel and the judge within ten (10) days of service of the original order, along with a separate document specifically stating the differences in the orders. Failure to submit an alternate order may result in the judge signing the first order received.

D. Entry. An order is not "entered" until Rule 58 is satisfied. The judge may sign a submitted order or may draft the court's own order. The clerk shall forward a copy of the entered order to counsel or *pro se* parties if directed by the court.

E. Parties' Signatures on Orders. Counsel or *pro se* parties may be required by the court to secure the signatures of parties on orders before submitting them for approval.

F. Settlement Orders. Any proposed settlement order (i.e., workers' compensation, minors' settlements, etc.) as well as petitions for withdrawal of minors' funds, which are denied by the court shall not be presented for settlement before another judge, unless that judge is advised in writing of the previous denial.

G. Reservation of Judgment. All orders which reserve some matter for final disposition shall state with particularity what is being reserved.

H. Appointments. The attorney preparing the order appointing guardian ad litem, special master, receiver, etc., shall have the obligation to ensure that the appointed individual is served with a copy of the order. Any attorney

requesting the appointment of such person shall ascertain in advance if the proposed individual will accept the appointment.

I. Accountings. Prior to submission to the judge, all orders of accountings shall be certified or approved as to accuracy by the clerk as follows, or in substantially the same wording:

"I certify that the attached accounting is in every manner proper and accurate."

Name: _____
Title: _____
Date: _____

6.02. CRIMINAL CASES.

A. Conviction. All judgments of conviction shall be prepared and signed by the district attorney as required by statute.

B. Preparation. The party who has filed or made a pretrial motion shall prepare an order reflecting the court's ruling as soon as possible after the hearing on such motion. Such orders shall be submitted to the trial judge before trial or the matter is waived.

C. Approval. Approval of orders shall be as in civil cases (Rule 6.01.C.). No attorney shall present any order to the judge without signing it and obtaining the signature of opposing counsel or following the approval process. Probation orders and other routine orders prepared by a probation agency shall not require approval of counsel, but the probation officer shall furnish a copy of any

such order to the probationer, and the order shall be signed by appropriate probation officer.

D. Order for Transcript. Upon filing notice of appeal, it shall be the duty of the attorney for an indigent appellant to present an order for the transcript to be prepared by the official court reporter which specifies the portions of the trial and other proceedings required. Defense counsel shall provide a copy of such order to the appropriate court reporter or reporters. Non-indigent defendants will contract with a court reporter who may charge the customary local rate. Arrangements must be made with the court reporter before applying for an extension of time.

RULE 7.
COURT RECORDS

7.01. ACCESS TO COURT RECORDS AND DOCUMENTS. No person except the judge, clerk or their agents shall be allowed access to the filing cabinets, vaults, or other repositories where court records are kept. All papers, documents, and records pertaining to any and all court records shall at all times be kept under strict control and custody of the clerks of the respective courts. If it is necessary for any person other than the foregoing to examine any record, the clerk will obtain that record for such person. Only attorneys or other court approved personnel may remove a record from the office upon signing a document specifying responsibility for the record. The person assuming responsibility shall

remain responsible until the record is returned to the clerk's office. Whether any record may be removed from the office of the clerk of any court will rest in the sole discretion of the clerk having custody or a judge of this district.

RULE 8.
PRETRIAL AND POST-TRIAL PROCEDURES

8.01. CIVIL COURTS.

A. Pretrial Conferences. Pretrial conferences will be held pursuant to T.R.Civ.P. 16 in appropriate cases. Such conferences may be held upon application of any party or by court order. An order reflecting the action taken at the pretrial conference shall be prepared by counsel. A suggested guide for such order is appended hereto as Exhibit A.

B. Expert Witnesses. Any party who plans to call an expert witness to testify shall submit the witnesses' name, address, field of expertise, and brief summary of qualifications and opinions to the court and other counsel no later than five (5) business days before the deposition or other personal appearance of the witness. Failure to comply with this requirement may result in disqualification of the witness. No party shall call more than two (2) experts on any issue without permission of the court.

C. Witness, Exhibit List and Trial Briefs. At least five (5) business days prior to the trial of a civil case, counsel shall exchange a list of names of witnesses and exhibits to be used in their case-in-chief, and allow viewing of

proposed exhibits. Counsel shall endorse their names on the other's list(s) as verification of compliance. Failure to comply with this requirement may result in disqualification of a witness or quashing of an exhibit.

Unless the scheduling order provides otherwise, any party who intends to submit a trial brief, shall serve the trial brief on all opposing counsel and/or parties at least five (5) business days prior to trial of a civil case and shall file the original with the clerk. If opposing counsel or party intends to submit a reply brief said counsel or party shall file the reply brief at least two (2) business days prior to trial. For purposes of this section, "Service" means personal delivery or receipt via fax.

D. General Sessions Appeal in Circuit Court. Counsel in any general sessions appeal shall file with the court two (2) business days before trial a brief statement of facts, theories of recovery and defenses. Failure to file the statement may result in the dismissal of the appeal or other appropriate action by the court.

E. Depositions. Depositions for proof must be filed no later than twenty-four (24) hours before trial. Discovery depositions shall NOT be filed unless so directed by the court or unless they are to be relied upon in a hearing in which case the pertinent portions only shall be filed.

Persons who have their deposition taken may, by prior arrangement with the court reporter and clerk of court, examine and read their deposition rather than waiving same (*See T.R.Civ.P.* 30.05) only in the courthouse in the county where

the case is filed. The original deposition may not be copied by deponents, their counsel or anyone else on their behalf, nor may it be removed from the courthouse unless agreed to by the court reporter or the Court.

F. Exhibits. When either party has more than three (3) exhibits to be introduced at trial, the exhibits shall be numbered by the attorneys, clerk or court reporter, as appropriate, prior to trial.

G. Voluntary Dismissals. When a written notice of dismissal is filed pursuant to T.R.Civ.P. 41.01, the notice shall be accompanied by an Order consistent with Rule 6.01.B.

H. Recusal. When the judges of this district have recused themselves, the attorneys shall pursue a trial date before the newly designated judge.

I. Written Discovery.

1. A party invoking/utilizing T.R.Civ.P. 31, 33, 34 or 36 shall serve the written request on all opposing counsel or *pro se* party, but NOT file same with the clerk. Instead, a copy of the transmittal letter that accompanied the written discovery requests shall be filed with the clerk's office and made a part of the official record. Discovery responses shall be answered and served in accordance with the appropriate T.R.Civ.P. and shall NOT be filed with the clerk. In responding to a request under T.R.Civ.P. 31, 33, 34 or 36, the responding party shall set out the request verbatim and shall follow it with the response.

2. Unless otherwise stipulated or ordered by the court, a party may

serve on any other party no more than one set of thirty (30) written interrogatories, including all discrete subparts.

3. If a motion to compel answers to such discovery request is filed, then the judge hearing the motion shall be provided with a copy of the request and response/objection which are the subject of the motion to compel at least five (5) business days before the hearing.

J. Special Verdicts, Jury Interrogatories and Requested

Instructions. In all jury cases where special verdicts or jury interrogatories are requested or required, or special request for instructions are to be made, the parties shall submit them to the trial judge at least five (5) business days prior to trial.

K. Accountings and Construction Suits. In any case involving a complicated and/or lengthy accounting or a construction case, the attorneys shall immediately notify the court and opposing counsel or party, so the judge may consider appointing a special master or other appropriate person to take the accounting and make a pretrial report, or order mediation.

L. Post-Trial. 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 withdrawn within that time period.

M. Mediation or Arbitration. Counsel shall submit an order reflecting any mediation or arbitration and include any continuance required of a trial setting. All documents reasonably requested by an opposing party which would enable

such party to prepare for and participate in mediation must be exchanged at least thirty (30) days prior to the mediation date. (Such requests might include a treating physician's records, notes, verification of income, time lost at work, etc.)

8.02. CRIMINAL COURT.

A. Pretrial Conferences. The judge presiding over criminal court may set pretrial conferences in any criminal case, in accordance with T.R.Cr.P. 17.1. If a pretrial conference is set in a criminal case, the judge presiding over the case will furnish counsel with appropriate instructions and notice as to time and place of the conference.

B. Clothing for Incarcerated Defendants. It is the responsibility of defense counsel to provide street clothes for an incarcerated defendant to the appropriate sheriff's department by 7:00 p.m. the evening before any jury trial is to begin if counsel does not want their client to appear in jail clothing.

8.03. JURORS. After the list of jurors is published, and while the term of court is in progress, an attorney, or any other person, shall not communicate with or cause another person to communicate with any juror regarding a trial on the docket. After the term of court is concluded and the jury is discharged, an attorney may talk to any juror if such juror desires to engage in such conversation, but shall refrain from asking questions or making comments calculated merely to harass or embarrass the juror or to influence future jury service.

RULE 9.
DOMESTIC RELATIONS CASES

9.01. CONTESTED DOMESTIC MATTERS.

A. Pay Stub - Federal Tax Return. When spousal or child support is a contested issue, the parties must furnish the court pay stubs for the two (2) pay periods preceding the hearing; if self-employed, the party must furnish documentation showing gross and net income for two (2) months preceding the hearing. The parties must furnish the court copies of their federal income tax returns as filed for the preceding two (2) years. A current income and expense statement shall be filed if either party is claiming an extraordinary expense or an upward or downward deviation.

B. Division of Assets/Debts - Alimony. When spousal support or property division is a contested issue, the parties shall file:

1. Income and expense statements. *See* Exhibit B.
2. Statement of assets to include but not be limited to all real and personal property, tangible or intangible, titled jointly or individually, and including all property acquired before marriage, after marriage, and after date of separation. This statement shall also include a market value of such assets and amount of debt, if any, for which a security interest exists. The statement shall also include any pension benefits, cash value of insurance policies, claims for possible lawsuits, and other similar items. *See* Exhibit C.
3. Statement of debts to include current amount of debt (with

date of balance due), method of payment (i.e., amount of monthly payments, etc.), and any asset securing this debt. *See* Exhibit C.

4. Statement of proposed equitable division of assets and debts and amount the party is claiming as appropriate support.

C. Filing Date. All statements required in 9.01.A. and B. shall be exchanged by the parties at least five (5) business days prior to the hearing. All statements required in 9.01.A. and B. shall be filed with the court by 10:00 a.m. the day preceding the hearing.

D. Setting for Trial. Contested cases must be placed on the contested domestic docket prior to 2:00 p.m. on the day preceding the hearing. In addition to the 9.01.A. and B. statements, in any case which is anticipated to exceed two hours trial time, the parties shall provide a statement that the parties have discussed the option of mediation and a brief explanation of why the matter has not been referred to mediation.

E. Expert Witnesses. When an expert is to testify in a domestic relations case, the expert shall file with the court a report outlining the expert's opinions, and the basis thereof, five (5) business days prior to the hearing. Such report shall likewise be provided to opposing counsel five (5) business days prior to the hearing.

9.02. CHILDREN IN COURT. Minor children are not permitted in the courtroom during contested domestic cases, and shall not be called as witnesses

without prior consultation with the Court.

9.03. UNCONTESTED DOMESTIC MATTERS. Uncontested domestic matters will be heard on any miscellaneous or contested domestic day prior to hearing contested matters. Attorneys are encouraged to specially set uncontested domestic matters for other days with the approval of the court.

9.04. CHILD SUPPORT. Any order establishing or modifying child support tendered to the court for approval should either state that the support agreed upon is in compliance with the child support guidelines, or if not in compliance, the reason(s) for any deviation from the guidelines. The order must also state that the attorneys have counseled with their clients concerning their rights and obligations under the guidelines and that any deviation is an informed and considered decision on the part of the parties.

9.05. CHILD SUPPORT PAYMENT. Unless good and sufficient reason is shown for doing otherwise, child support payments shall be paid to the appropriate person, agency, or as the court directs. The order shall provide a day certain for the commencement of any such support or other payment. If the court permits direct payments of child support, they shall be made by check, money order or cash payment reflected by a dated receipt showing the sum paid, signed by the recipient. This directive shall be included in any order for such direct payment of support.

9.06. TEMPORARY RESTRAINING ORDERS. In domestic

relations cases, all applications for an ex parte restraining order which are based solely upon sworn pleadings or affidavits, must contain a detailed statement of facts which would clearly support the relief sought. Any *ex parte* order shall state: "The party herein restrained, upon request to the clerk, may have a hearing on this order on the next court day following service or as soon thereafter as possible."

9.07. GUARDIAN AD LITEM. In appropriate cases, a guardian ad litem shall be appointed to represent the interest of a minor child. Attorneys shall immediately call to the attention of the court the need for the appointment of a guardian ad litem. Any guardian so appointed who is either unable or unwilling to serve shall notify the court in writing as soon as practicable.

9.08. CONFIDENTIAL REPORTS. A confidential report prepared and filed pursuant to an order of the court may be read, upon request, by counsel in the presence of the judge or as otherwise directed by the judge. The party preparing the order directing preparation of such a confidential report shall be responsible for getting a copy of the order to the expert. Further, when the court orders a non-party, such as a social agency, etc., to make a report to the court, the order shall advise the non-party to include in the report the name of the court and the civil action number.

9.09. PERSONAL JURISDICTION. All final decrees of divorce shall state the jurisdiction of the court over the parties, whether it be personal service, constructive service and the type thereof, etc.

9.10. AGREED PARENTING PLAN CHANGE. All agreed orders to change parenting plan must state with particularity the reason(s) for the change(s).

9.11. ORDERS REFERRING TO MARITAL DISSOLUTION AGREEMENTS. All orders which refer to a marital dissolution agreement must have such agreement attached in full when presented to the court for the judge's signature.

9.12. ORDERS INVOLVING CUSTODY OR SUPPORT OF MINOR. Any order involving custody or possession of a minor child shall include the rights specified in T.C.A. §36-6-101(a)(3)(A-I) or shall incorporate such rights by reference to a prior order. Any order involving the paternity of a child or child support must have the clerk's Exhibit A (T.C.A. §36-5-101(c)(2)(B)(i)) attached or the information so required in the body of the order.

9.13. RECONCILIATION. Any order of reconciliation shall not exceed a period of six (6) months, unless extended by court order.

9.14. ADOPTION.

A. Consent. All surrender forms must be completed to the extent permitted prior to presenting to the Court and all signature lines must be tabbed.

B. Children's Presence. The presence of any child thirteen (13) years or younger to be adopted shall be at the discretion of the parties and their attorney.

9.15 PARENTING PLAN

A. General Provisions. This rule is adopted to promulgate procedures

to be followed in the courts of record in the First Judicial District of Tennessee so as to ensure that the intent of *T.C.A. §36-6-401, et seq.*, is carried out in domestic cases with children.

B. General Order. The “General Order Concerning Parenting Plan” for the First Judicial District is hereby adopted. It is available in all circuit court clerk’s and clerk and masters’ offices.

C. Duties of Clerks.

1. Attachment of Parenting Plan Package to Summons.

When a complaint for divorce or petition for modification in a post-divorce case is filed with the clerk’s office, and such complaint or petition addresses parenting responsibilities and/or the establishment of a child’s residential schedule, the clerk shall assume that the parenting plan package has been attached to the summons. If the filing party is represented by an attorney, the package shall be attached to the summons by the filing attorney. If the filing party is not represented by an attorney, the clerk shall give the filing party a package and attach a package to the summons to the defendant / respondent.

2. Package Contents. The package shall contain the General Order, the Parents’ Guide to the Education Seminar and Mediation, and the Parenting Plan form approved for use in this district.

3. Temporary/Proposed/Permanent Parenting Plan Form. A standard form will be made available by the clerks to attorneys and parents. (An

affidavit in lieu of parenting plan will also be available upon request. Its use will be severely limited, e.g., in a case where another court has jurisdiction of the children.)

4. Check List. A check list will be attached by the clerk to each case file involving divorce proceedings with minor children. The check list will be completed by the clerk as items are furnished to parties, or filed by parties, attorneys, providers, or the court.

5. Order to Mediate. The clerk will submit to the judge for signature an Order to Mediate if the parties have not filed an agreed parenting plan within one hundred twenty (120) days of service of process and have not proceeded voluntarily to mediation.

6. Standard Forms. Clerks will have standard forms available for consistent use throughout the district. Such forms will include the parenting plan form, order to mediate, order to pro bono mediation, and order to mediate designating a mediator and such other forms as the chancellor and judges shall approve for use in this district.

D. Duties of Attorneys. Attorneys representing parents involved in divorce proceedings involving minor children shall:

1. Secure from the clerk's office or otherwise all approved forms utilized under this rule.

2. Furnish a copy of the Parenting Plan Package (C.2 of this

rule) to their client and explain the contents to the client.

3. Attach a copy of the package to any summons filed on behalf of plaintiff / petitioner.

4. Monitor their client's timely attendance to a parent education seminar.

5. Assist client in selecting or reaching an agreement as to an appropriate mediator if a parenting plan has not been timely agreed upon by the parties.

6. File with the complaint or answer an agreed to or proposed parenting plan on the required form. If the court does not have jurisdiction over the children, the affidavit in lieu of parenting plan may be filed.

7. Follow the Attorney's Guide to Mediation.

8. The agreed or ordered parenting plan will be attached to the marital dissolution agreement or decree as an exhibit and will not be duplicated in the marital dissolution agreement or decree. The original plan executed by the parties should be presented to the court with the final decree rather than pre-filed in the court file. Such other exhibits shall be attached as required by law or local rule.

E. Duties of Providers.

1. The list of approved providers is in the Parents' Guide to the Education Seminar and Mediation.

2. The educational providers will make all arrangements for time, place, and fees for seminars to be conducted in no less than two-hour blocks. The seminar schedule for each provider will be provided to the clerk to be made available to parents and attorneys. Providers may give brochures or brief informational documents to the clerks, which will be available to parents and/or attorneys.

3. Educational providers will file with the appropriate clerk a copy of a Certificate of Attendance given to parents attending the classes. Certificates shall include the following: name, social security numbers; docket number; name of educational provider; date class was attended; and be signed by a representative of the provider.

4. The fee or costs of the parenting seminars shall be borne by the parties. Fees may be reduced or waived for indigent persons. The educational provider will be expected to accommodate an appropriate number of pro bono or reduced fee placements for indigent persons.

F. Mediators.

1. At any time during the divorce proceedings, parents may choose to participate in a method of alternative dispute resolution and select their own mediator or arbitrator. The court may on its own motion or by motion of one or both parties appoint a mediator pursuant to Supreme Court Rule 31. If the parties are unable to reach an agreement on a permanent parenting plan within one

hundred twenty (120) days after commencement of the action, either party may request an order for referral to mediation or alternative dispute resolution or request a waiver for just cause. The court may designate a Rule 31 mediator by court order. The mediators' fees may be taxed as court costs or the court may determine the case is appropriate for pro bono mediation. The mediator is responsible for reporting to the court pursuant to Supreme Court Rule 31.

2. Mediation Fees and Agreement to Mediate. The parents and mediator shall agree upon the fees with the mediator. An agreement to mediate shall be executed at the beginning of mediation by the parents and mediator *or* the court may, upon motion, determine that the case is appropriate for pro bono mediation and the fees will be waived or reduced.

3. Invoicing Procedures. If the court has ordered that mediator fees are to be taxed as court costs, the invoice must be submitted with the original final report to the clerk's office. It is the mediator's responsibility to notify the clerk's office that an invoice is included in the final report. The invoice shall include the name of the court and a docket number to ensure correct filing and payment.

G. Setting Contested Cases. If the parties have been through mediation and are still unable to agree on a permanent parenting plan, each shall file and serve a proposed plan forty-five (45) days before the trial date, utilizing the form approved in this district.

If the parties have been unable to reach an agreement on a temporary parenting plan, either or both parties may request the court to order dispute resolution. If dispute resolution is not available or not appropriate, either party may request and the court may order an expedited hearing to establish a temporary parenting plan. Each party shall file and serve a proposed temporary parenting plan at least five (5) business days before the hearing date.

Pursuant to the statute, in entering a permanent parenting plan, the court shall not draw any presumptions from the provisions of a temporary parenting plan.

Rule 10.
USE OF BROADCAST AND ELECTRONIC MEDIA

See Sup. Ct. Rule 30.

RULE 11.
GUIDELINE FOR PROFESSIONAL COURTESY AND CONDUCT.

The Memphis Bar Association's Guideline for Professional Courtesy and Conduct is hereby adopted as a code of expected conduct in the First Judicial District, as set forth below:

PREAMBLE

A lawyer's duty to each client is to represent that client zealously within the bounds of the law. In striving to fulfill that duty, a lawyer must ever be conscious of the broader duty owed to the legal system which is designed to resolve human

and societal problems in a rational and logical manner.

A lawyer owes to the judiciary a duty of candor, honesty, diligence and utmost respect.

A lawyer owes to opposing counsel a duty of courtesy, fairness and cooperation.

A lawyer should strive to achieve higher standards of conduct than those called for by the [Rules of Professional Conduct] Code of Professional Responsibility.

A lawyer owes to the administration of justice a duty of personal dignity and professional integrity.

In the furtherance of these fundamental concepts, the following Guidelines for Professional Courtesy and Conduct are hereby adopted. These Guidelines are not intended nor should they be construed as establishing any minimum standards of professional care or competence. The sole purpose of adopting these Guidelines is to promote and foster the ideals of professional courtesy, conduct and cooperation set out above.

I. COURTESY, CIVILITY AND PROFESSIONALISM

1. A lawyer should treat the opponent, the opposing party, the court and the members of the court staff with courtesy and civility, conducting business in a professional manner at all times.

2. A lawyer has no right, even when called upon by a client to do

so, to abuse or to indulge in offensive conduct towards the opposite party. A lawyer should always treat adverse witnesses and parties with fairness and due consideration.

3. While in adversary proceedings, clients are litigants, and while ill feelings may exist between them, such ill feeling(s) should not influence a lawyer's conduct, attitude, or demeanor towards opposing lawyers.

4. A lawyer should do all that is necessary to ensure that clients, the public, and other lawyers respect the judicial system. To this end, a lawyer should:

a. Never knowingly misstate fact or law, regardless of any pressure to do so.

b. Not engage in tactics that complicate or delay matters unnecessarily.

c. Avoid creating unrealistic expectations of a client or the public.

d. Avoid denigrating the legal profession, the court system or adversary counsel.

5. A lawyer should encourage methods and practices which simplify and make less expensive the rendering of legal services.

6. A lawyer should never institute or pursue a legal procedure solely for the lawyer's own profit where there is no reasonable expectation that it

will advance or contribute to the best interest of the client.

7. A lawyer should preserve and respect the law by observing all duties to the community and to the Profession. To this end, a lawyer should:

a. Contribute time and expertise to those unable to otherwise afford representation of their interests.

b. Participate in public service and public education activities through personal involvement and financial contributions, and encourage fellow lawyers to do the same.

c. Work to develop among lawyers a strong commitment to the ideals of integrity, honesty, competence, fairness, independence, courage, and dedication to the public interest.

8. A lawyer should recognize the importance of communication with both clients and adversaries. A lawyer should return all telephone calls and respond to all correspondence promptly.

9. A lawyer should never deceive the court or another lawyer.

10. A lawyer should honor promises or commitments made to another lawyer.

11. A lawyer should make every reasonable effort to cooperate with opposing counsel.

12. A lawyer should maintain a cordial and respectful relationship with opposing counsel.

13. A lawyer should seek sanctions against opposing counsel only when required for the protection of the client or of the legal system and not for mere tactical advantage.

14. A lawyer should not make unfounded accusations of unethical conduct about opposing counsel.

15. A lawyer should never intentionally embarrass another lawyer and should avoid personal criticism of another lawyer.

16. A lawyer should always be punctual.

II. PROFESSIONAL CONDUCT IN LITIGATION

1. A lawyer should respect the schedule and commitments of opposing counsel, clients and the courts, thereby promoting the efficient administration of justice and public confidence in our profession. To this end, a lawyer should:

a. Consult opposing counsel, when practical, before scheduling hearings and depositions.

b. Avoid unnecessary continuances of trials, hearings or depositions.

c. Immediately notify opposing counsel and the court of scheduling conflicts.

2. A lawyer should consult opposing counsel in an effort to resolve matters by agreement before filing motions or requesting hearings.

3. A lawyer should refrain from engaging in unnecessary, excessive or abusive discovery. Requests for production of documents should not be excessive or designed solely to place a burden on the opposing party.

4. A lawyer should comply fully with reasonable discovery requests and should not countenance obstructive or evasive tactics. To this end, a lawyer should:

a. Exchange information voluntarily, when practical, without formal discovery requests.

b. Upon request produce all responsive documents, and produce them as they are kept in the ordinary course of business or organize and label them to correspond with the categories in the request.

5. A lawyer should stipulate to matters where they are undisputed or where no genuine basis for objection exists.

6. A lawyer should always contact opposing counsel in an effort to resolve litigation. Since most cases are ultimately settled, initiating such discussions at the outset is recognition of reality, not a sign of weakness.

7. A lawyer should make reasonable efforts to conduct all discovery by agreement.

8. A lawyer should not use any form of discovery, or the scheduling of discovery, as a means of harassing opposing counsel or an opposing party.

9. A lawyer should, when practical, consult with opposing counsel before scheduling hearings and depositions in a good faith attempt to avoid scheduling conflicts.

10. A lawyer should avoid unnecessary delays. To this end, a lawyer should:

a. Give notice of cancellation of depositions and hearings to the court and opposing counsel at the earliest possible time.

b. Submit any proposed order promptly to opposing counsel and attempt to reconcile any differences before presenting it to the court.

c. Respond promptly to any proposed order submitted by opposing counsel.

11. A lawyer drafting a proposed order should reflect in it clearly and accurately the ruling of the court and nothing more.

12. A lawyer should serve copies of all briefs upon opposing counsel at the time that they are filed with the court.

13. A lawyer should not take a default judgment without first giving reasonable notice to opposing counsel or to the opposing party if not represented by counsel of his intention to do so, and should agree to set aside such a default judgment when reasonable cause exists and his client upon his recommendation consents.

14. A lawyer should grant reasonable extensions of time to

opposing counsel where such extensions will not have a material adverse effect on the rights of the client.

15. A lawyer should not attempt to obtain an advantage by informal communication with the court.

III. PROFESSIONAL CONDUCT IN BUSINESS AND COMMERCIAL PRACTICE

1. A lawyer should determine the sophistication, goals and demands of the client before representing the client in a transaction.

2. A lawyer should ascertain and respect the scope of the negotiating authority granted by the client.

3. A lawyer should be guided by the client's goal in completing a transaction. To this end, a lawyer should:

a. Utilize terms which are clear, concise and practical in drafting documents.

b. Not make an issue of matters or form when revising documents. Pride of authorship, when matters of substance are not involved, only contributes to delay and costs in a transaction.

4. A lawyer should not seek tactical advantage by delaying negotiations until the last minute. To promote efficiency and fairness a lawyer should, whenever possible, treat the negotiation of a transaction and the closing thereof as mutually exclusive activities.

5. A lawyer should not use the threat of legal proceedings or of

the possible effect thereof as a means of obtaining an unjustified advantage for a client.

6. When a lawyer requires as part of a transaction an opinion letter from another lawyer, it should deal only with the matters requested, any reservations being clearly stated.

ENTER this _____

THOMAS J. SEELEY, JR.
Circuit Court Judge, Part I

JEAN A. STANLEY
Circuit Court Judge, Part II

G. RICHARD JOHNSON
Chancellor

ROBERT E. CUPP
Criminal Court Judge, Part I

LYNN W. BROWN
Criminal Court Judge, Part II