

## Rule 1 – Definitions, Suspension of Rules

### Sec. 1.01 Definitions

Unless indicated otherwise, the following definitions apply:

- (a) Judge: The Circuit Judge or the Chancellor of the Chancery Court. ***Sometimes in these rules the Judge is referred to as the Court.***
- (b) Clerk: The Circuit Court Clerk or the Clerk and Master of the Chancery Court.
- (c) Calendar Clerk: The secretary of the respective Judge.
- (d) T.C.A.: Tennessee Code Annotated.

### Sec. 1.02 Suspension of Rules

The Court may suspend any of these rules when justice requires.

## Rule 2- Court Sessions

### Sec. 2.01 Times

Sessions of Court will open at 9:00 a.m. or at such other times as the Court directs. Judges, attorneys, parties and witnesses will be prompt at all sessions.

### Sec. 2.02 Terms Abolished

Terms of Court are abolished. Court shall be considered available for setting continuously.

### Sec. 2.03 Empaneling of Grand Juries and Trial Juries

**Weakley County:** 1<sup>st</sup> Tuesday of January, May and September.  
**Obion County:** 1<sup>st</sup> Tuesday of February, June and October.

## Rule 3 – Withdrawal of Attorneys

All counsel who enter an appearance in a case will be counsel of record and may not withdraw except for good cause and by leave of the Court upon motion and notice to all parties. The Motion to withdraw must include a Certificate of Service stating that copies of the Motion and the Notice of the court hearing were served on all parties and attorneys.

## Rule 4 – Pro Se Litigants

- (a) All parties permitted by the Court to represent themselves in civil cases without representation by attorneys are obliged to comply with these Rules.
- (b) Parties requesting the right to represent themselves shall file a written notice with the Clerk of the Court stating their intentions to represent themselves. A copy of the notice shall be forwarded by the party to all attorneys of record and to all parties not represented by attorneys and shall contain a signed certificate of service. The notice shall include full names of all parties seeking to represent themselves, the mailing addresses

where court documents are to be forwarded, and, if available, a current telephone number for each such party. All parties representing themselves shall notify the Clerk of the Court, all other parties, and attorneys of record of any changes of address or telephone number.

(c) The Clerk is **not** to file any pleadings or documents for parties representing themselves unless those documents and pleadings contain a certificate of service identifying all persons to whom the pleadings or documents are being delivered.

(d) All references, in these Rules, to the obligations of counsel or attorneys are applicable to parties representing themselves.

## **Rule 5- Court Files**

### **Sec. 5.01 Control of Files**

All papers and records of the Court shall be at all times under the custody and control of the Clerk. Persons wishing to review Court files, records, tape recordings or filed exhibits may do so only under the supervision of the Clerk in a space provided in the Clerk's office.

### **Sec. 5.02 Withdrawal of Files**

No files shall be withdrawn from the office of the Clerk except by attorneys or their staff on permission of Court or as provided in Sec. 5.03 below.

### **Sec. 5.03 Receipt**

No file will be withdrawn from the Clerk's custody by an attorney or their staff without first obtaining permission from the Court or the Clerk and signing to return the file on a specific date.

## **Rule 6 - Filing of Papers**

### **Sec. 6.01 Filed with the Clerk**

Pleadings, motions, briefs, and proposed judgments and orders shall be filed with the Clerk. Copies of motions and briefs shall be sent to the Judge prior to the hearing.

### **Sec. 6.02 Custody of the Files**

The Clerk will have custody of all papers and records of the court. The Clerk will furnish copies of the content of files at a reasonable cost.

### **Sec. 6.03 Papers, Documents or Files Under Seal**

All papers, documents and files shall be available for public inspection except as specifically exempted by court order or statute. The motion seeking such an order must contain sufficient facts to overcome the presumption in favor of disclosure.

**Sec. 6.04 Depositions in Worker's Compensation Cases**

Depositions in worker's compensation cases are to be filed with the Clerk and a copy provided to the Judge 48 hours prior to trial.

**Rule 7 – Discovery**

**Sec. 7.01 Filing Required Only for Use by Court**

Interrogatories, requests for production of documents or admissions, depositions and other discovery material which is filed with the Clerk will be stamped filed by the Clerk and returned to the filing party. Such material will not be retained by the Clerk unless it is to be used in Court or considered by the Court for a purpose other than impeachment.

**Sec. 7.02 Interrogatories to Parties**

(a) Written interrogatories and sub-questions shall not exceed thirty (30) in number, without an order from the Court.

(b) The party to whom the interrogatories are directed shall answer or object to each interrogatory and shall serve the answers and responses, with the original verification, on the party propounding the interrogatories.

**Sec. 7.03 Discovery Disputes**

Motions to compel discover shall:

1. either (1) quote verbatim the interrogatory, request, or question and any objection or response thereto, or (2) be accompanied by a copy of the interrogatory, request, or excerpts of a deposition which shows the question and objection or response;
2. state the reason supporting the motion; and
3. be accompanied by a discovery effort certification. To curtail undue delay, the Court will refuse to rule on any motions for discovery unless moving counsel shall first file with the Court at the time of filing of motions, a statement certifying that he has conferred with counsel for the opposing party in a good faith effort to resolve by general agreement the issue raised and that counsel have not been able to do so. If counsel for any party advises the Court in writing that any opposing counsel has refused or delayed a discussion of the problems covered in this subsection, the Court may take such action as is appropriate.

[When a party has submitted no response to the discover or has objected to the entire set of interrogatories or requests, the requirements of Local Rule 7 Section 7.03 shall not apply]

**Rule 8 - Pretrial and Scheduling Conferences**

**Sec. 8.01 Scheduling Conferences**

Scheduling conferences may be set in the discretion of the Court.

## **Sec. 8.02 Pretrial Conferences**

(a) Pretrial conferences will be held at the request of the parties or at the discretion of the Court.

(b) Each party appearing in the action shall be represented at the pretrial conference by counsel who will conduct the trial or by co-counsel with full knowledge of the case, and with the authority to bind such party by stipulation.

(c) Counsel shall obtain the names, addresses and nature of testimony of witnesses to be called at the trial and, if requested, furnish names to opposing counsel at or prior to the pretrial conference.

(d) Counsel shall discuss, in advance of the pretrial conference, the facts, issues, documents, and exhibits involved in the case so that as many stipulations and agreements as possible may be made in advance, between the parties.

## **Sec. 8.03 Required Exchange of Witnesses and Documents**

At least ten days before the trial of a civil case, opposing counsel shall either meet face-to-face or shall hold a telephone conference for the following purposes:

- a. to make available for viewing and to discuss proposed exhibits; and
- b. exchange a list of witnesses and exhibits. In the event that the parties hold a telephone conference rather than a face-to-face meeting, the exhibits shall be made available for viewing before the conference.

## **Sec. 8.04 Briefs in Civil Jury Cases**

In all jury cases, unless otherwise allowed by the Court, ten (10) days before the trial of a case, trial briefs shall be submitted to the Court and furnished to opposing counsel. The trial brief format is attached to this Rule as Appendix A. If an issue to be litigated at trial has been briefed in pre-trial motions and counsel believes that the motion brief adequately covered the issue, counsel may refer the court to the motion brief in lieu of briefing the issue for trial.

## **Sec. 8.05 Brief in Civil Non-Jury Cases**

In all non-jury cases, trial briefs are required ten (10) days before trial. Unless otherwise allowed by the Court, before the trial of a case, trial briefs shall be submitted to the court and furnished to opposing counsel. The trial brief format is attached to this rule as Appendix B. If an issue to be litigated at trial has been briefed in pre-trial motions and counsel believes that the motion brief in lieu of briefing the issue for trial.

## Appendix A

### TRIAL BRIEF FORMAT – JURY

- A. A concise statement of the facts.
- B. The factual issues to be decided.
- C. Points of law.
  - 1. Address all areas felt appropriate including those of an evidentiary nature if felt controversial.
- D. An argument is neither required nor desired, but may be included if felt necessary by counsel.
- E. Jury instruction.
  - 1. General (Reference may be made to T.P.I. by numbers.)
  - 2. Include all special requests to charge.
- F. General.
  - 1. Briefs will not be filed with the clerk, but sent directly to the appropriate Judge at:
    - Chancery Court: Chancellor W. Michael Maloan  
Weakley Co. Courthouse  
116 West Main Street, Suite 300  
Dresden, TN 38225
    - Circuit Court: Judge Jeff Parham  
Post Office Box 741  
201 W Main St, Suite G  
Union City, Tennessee 38261.
  - 2. Include photo static copies of any out-of-state cases cited and all statutes relied upon.
  - 3. Counsel will attach copies of their respective pleadings leading to a joining of issue, i.e. complaint and answer – amended, supplemental, etc.

**TRIAL BRIEF FORMAT – NON-JURY**

- A. A concise statement of the facts.
- B. The factual issues to be decided.
- C. Points of law.
  - 1. Address all areas felt appropriate including those of an evidentiary nature if felt controversial.
- D. An argument is neither required nor desired, but may be included if felt necessary by counsel.
- E. General.
  - 1. Briefs will not be filed with the clerk, but sent directly to the appropriate Judge at:
    - Chancery Court: Chancellor W. Michael Maloan  
Weakley Co. Courthouse  
116 West Main Street, Suite 300  
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    - Circuit Court: Judge Jeff Parham  
Post Office Box 741  
201 W Main St, Suite G  
Union City, Tennessee 38261.
  - 2. Include photostatic copies of any out-of-state cases cited and all statutes relied upon.
  - 3. Counsel will attach copies of their respective pleadings leading to a joining of issue, i.e. complaint and answer – amended, supplemental, etc.

## Rule 9 – Motions

### Sec. 9.01 Setting Motions for Hearing

(a) Obion County Circuit Court and Chancery Court: Every first and third Monday is motion day.

Weakley County Circuit Court and Chancery Court: Every second and fourth Monday is motion day.

(b) Motions will be set by the Judge or Calendar Clerk of the respective Court at the request of counsel. It is the responsibility of counsel upon filing a motion to confer with opposing counsel to secure a mutually agreeable time for hearing. Upon failure to agree, moving counsel shall give formal notice of a hearing date secured from the Judge or the Calendar Clerk. All motions are set for hearing at 9:00 a.m. in Chancery Court and 9:00 a.m. or 1:00 p.m. in Circuit Court. The Court may upon its own initiative or by agreement of counsel hear the motion by telephone or decide the motion without argument.

(c) Uncontested divorces, support pendente lite, worker's compensation settlements, minor's settlements, adoptions and other uncontested matters may be heard on motion days.

### Sec. 9.02 Hearings

All motions shall be in writing and shall state with particularity the grounds for the motion and the relief sought. The attorney who files the motion has the burden to make application for a hearing at the next available motion day or as soon thereafter as practicable. With the approval of the Court some motions may be heard by telephone conference call. Failure to comply with this Rule shall be construed by the Court as abandonment of the motion. When a motion is set for a hearing, the Judge who will hear the motion shall be provided by the attorney who filed the motion with a courtesy copy of the motion and all supporting materials. The Judge shall also be provided by the attorney responding to the motion with a copy of the response along with all supporting materials.

- (a) **Dispositive Motions.** All motion potentially dispositive of any issue in a case shall be scheduled for hearing by the attorney filing the motion at the next available motion day after the 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 the motion.
- (b) **Summary Judgment.** Motions for Summary Judgment shall be filed and served at least sixty (60) days before the scheduled trial date. Any motion for Summary Judgment filed within sixty (60) days of the scheduled trial date will not be heard and the matter will proceed to trial. All motions for summary judgment and to dismiss supported by evidentiary matters shall be filed at least thirty (30) days before hearing of same as required by Rule 56.04 of the Tenn. R. Civ. P. Attorneys for the proponent of the motion shall deliver memorandum briefs to the Court (with a copy of affidavits and supporting documents), and shall file with the Clerk all original affidavits and supporting documents at the least thirty (30) days prior to the hearing of the motion. Attorneys for the respondent shall deliver memorandum briefs to the Court, (with a copy of affidavits and supporting documents not later than five (5) days before the hearing as required by Rule

56.04 of the Tenn. R. Civ. P. No motions shall be heard unless the parties comply with this Rule.

- (c) **In Limine.** Motions in Limine shall be, where practical, filed no less than ten (10) business days before trial and set for hearing before the trial. The Court shall be notified of any objections in medical depositions to be read or shown to the jury and the objections shall be heard before the trial.

### **Sec. 9.03 Briefs on Motions and Responses**

Every motion which seeks resolution of doubtful or infrequently encountered issues of law and every motion which seeks summary disposition of a case shall be accompanied by a brief setting forth the essential facts, and the principles of law relied on, with citations to authorities. Reply briefs must be filed and served no later than 24 hours in advance of the hearing on the motion. A copy of the motion and brief shall be sent to the Judge at his office. PARTIES ARE ENCOURAGED TO LIMIT THEIR BRIEFS TO TEN PAGES OR LESS.

### **Sec. 9.04 Special Setting of Motion**

Where special circumstances warrant, motions may be specially set at a time other than on the motion docket by agreement of all parties and approval of the Judge or Calendar Clerk.

### **Sec. 9.05 Court's Own Motion**

Motions may also be set upon the Court's own motion by notice to counsel.

### **Rule 10 - Setting Civil Cases for Trial**

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

- (a) by agreement of counsel and approval of such date by the Judge or Calendar Clerk. Counsel must, upon receiving date, forward letter of confirmation to all parties, the Judge and Clerk of the Court;
- (b) by motion to set;
- (c) by the Court with notice to counsel; or
- (d) at a scheduling or pretrial conference.

Civil attorneys should notify the trial court if a settlement is reached prior to the date setting of a jury trial or if a jury trial is not needed for any reason. If a jury is called in, and a case is not tried to a jury on that date, the Court may assess the cost of the jury to the parties.



## **Rule 11 - Continuances**

- (a) Cases may be continued only by approval of the court. A copy of motion shall be sent to the judge. Unless required by exigent circumstances, counsel shall not apply for a continuance except upon written motion. Notice to all counsel and any pro se litigants shall be given as required by Tenn. R. Civ. P. 6.04, 6.05, or in such manner as to provide reasonable notice and an opportunity to be heard to all parties.
- (b) Normally, the absence of a witness, will be grounds for a continuance only where the subpoena for a local witness was issued ten (10) days or more before the date of trial, or ten (10) days or more before the date of the trial where the witness is out of the county; however, each application for a continuance is subject to the discretion of the court.
- (c) When application for a continuance is based upon the illness of a party or a material witness, said application should contain a written statement specifying the type of illness, whether or not the illness is of a temporary or permanent nature, and whether or not such person is able to appear in court.
- (d) When application is based upon the fact that a material witness cannot be found, an affidavit must be filed giving the name of said witness or witnesses, what evidence is expected to be proved by said witness or witnesses, and what effort has been made to locate said witness or witnesses.
- (e) If a case is continued, a new trial date may be ordered by the Court for a date certain at the time the motion for continuance is granted.

Continuances are looked upon with disfavor by the Court. There should be no ex parte communications regarding a continuance. The Court desires to hear from all counsel simultaneously.

## **Rule 12 - Preparation and Submission of Orders and Judgments in Civil Cases**

Orders and judgments shall be headed by a title indicating the nature thereof. Unless the Court directs otherwise, attorneys for prevailing parties will prepare orders for entry by the Court. All proposed orders must be submitted to the Judge within ten (10) days following the day on which the ruling is made by the Court. Unless the order is approved by all counsel, it shall contain an appropriate certificate of service. Counsel who do not approve the proposed order shall submit their own order within ten (10) days of receipt of the proposed order and designate the disputed issues to the Court. The Court will either approve one of the proposed orders or enter its own order.

## **Rule 13 – Interchange**

### **Sec. 13.01 Order of Interchange**

The trial judges within the district may freely interchange without necessity of notice or entry of a formal order of interchange.

**Sec. 13.02 Presentation of Uncontested Divorces, Worker's Compensation Settlements and Other Uncontested Matters.**

Uncontested divorces, worker's compensation settlements, minor's settlements and other uncontested matters may be heard by either Judge regardless of the Court in which the matter was filed. No order of interchange shall be required. The purpose of this rule is to expedite such uncontested matters when the Judge of the Court in which the matter is pending may not be readily available. Under such circumstances, counsel may set matters with either Judge without first having to secure the approval of the Judge of the Court in which the matter is pending.

**Rule 14 - Procedure in Criminal Cases**

**Sec. 14.01 Grand Jury**

(a) Weakley County: New grand juries will be impaneled the first Tuesday in January, May and September. Special grand juries will be impaneled at such other times as set by the Court.

(b) Obion County: New grand juries will be impaneled the first Tuesday in February, June and October.

Special grand juries will be impaneled at such times as set by the Court.

**Sec. 14.02 Arraignments**

Arraignments for those indicted in Obion and Weakley Counties shall be conducted on the second Tuesday of the month of the indictment in the respective county beginning at 9:00 a.m.

All persons indicted as well as retained or appointed attorneys must be present on said date and time.

At arraignment, an appearance date will be set.

**Sec. 14.03 Representation**

If during arraignment, an attorney advises the Court of his/her representation of the defendant, that attorney shall remain counsel of record for the defendant until final disposition of the case in the trial court unless excused by the Court for good cause shown.

**Sec. 14.04 Plea Agreement Deadline**

After the case is set for trial, the Court will not accept a plea agreement except for good cause shown.

## **Rule 15 - Bail Bonds**

Bail bonds may be made by: (a) a qualified professional bondsman; (b) a cash bond; (c) property bond; or (d) other bonds approved by the Court.

For a property bond, the assessed value of the property must be at least twice the amount of the bond. The property bond must be secured by a deed of trust with the Clerk as Trustee, payable to the State of Tennessee. In addition, a title opinion must be provided by an attorney. Additional information may be obtained in the Clerk's office as to title opinion requirements.

## **Rule 16 – Prison Inmates**

The following rules apply to the appearance of prison inmates in court:

(a) When the prison inmate is a defendant in a criminal case, the District Attorney General shall prepare a proposed transport order and submit it to the Court at least ten (10) working days prior to the court date.

(b) Counsel needing prison inmates as witnesses in a criminal case shall submit a proposed transport order at least ten (10) working days prior to the trial or hearing date.

(c) Defense counsel in criminal cases shall make every effort to insure that prison inmates are not needlessly brought to court for a scheduled settlement docket unless the case is for actual settlement and/or there is other just cause.

(d) Deadlines on transport orders may be waived by the Court for just cause if it is practicable for the Sheriff's Department to transport the inmate on short notice.

## **Rule 17 – Clothes for Incarcerated Defendant's**

Counsel for jailed defendants should make a diligent effort to have clothes provided to his or her client by 7:00 a.m. on the day of the trial. The purpose of this Rule is to avoid a delay on the day of trial while street clothes are obtained for an incarcerated defendant.

## **Rule 18 – Setting Cases for Trial and Continuances: Criminal Cases**

### **Sec. 18.01 Method of Setting**

Cases shall be set for trial by the court on the final review date.

### **Sec. 18.02 Continuances**

(a) Cases may not be continued by agreement and may be continued only by leave of court. When a case has been set for trial it will not be continued except for good cause, which shall be brought to the attention of the court as soon as practicable before the date of the trial.

(b) Absence of a witness will not be a ground for continuance unless the witness has been subpoenaed in accordance with the requirements of these rules and Rule 17, Tenn. R. Crim. P.

## **Rule 19 – Waiver of Arraignment**

Waiver of Arraignment shall be in writing and signed by the defendant. Waivers shall be filed no later than the morning of arraignment day, with service to the office of the district attorney and the Judge presiding over arraignment. Counsel of record must appear at arraignment pursuant to Tenn. R. Crim. P. Rule 43 (c)(4).

## **Rule 20 – Negotiations and Settlements in Criminal Cases**

### **Sec. 20.01 Settlement Date; Settlement Deadline**

The final review (appearance) date will be the deadline for acceptance of a negotiated disposition. At the final review (appearance) date, if the case has not been settled the court will set the case for trial. Once a case has been set for trial, the court will not accept any settlement except for good cause which shall be brought to the attention of the court as soon as practicable. If a jury reports on the day of trial and the case is not tried, the Court may assess the cost of the jury as part of the court costs. Nothing in this rule shall prohibit the defendant's election to enter a plea of guilty to one or more counts of an indictment while demanding a trial on one or more counts of the same indictment. Likewise, counsel for the State may move to dismiss with prejudice one or more counts of the indictment while demanding trial on one or more counts.

### **Sec. 20.02 Notice to Victims**

In recognition of T.C.A. § 40-38-101, in cases involving plea agreements pursuant to Tenn. R. Crim. P. 11, the court may refuse to accept the plea unless the prosecuting attorney states on the record that he or she has, before the plea, communicated with the victim regarding the plea or made a good faith effort to communicate with the victim.

## **Rule 21 – Appointment of Attorney for Indigent Defendant**

Those persons who see a court appointed attorney on the basis of indigency must notify the Court at their initial court appearance. If the Court determines that a defendant is indigent, the Court will appoint an attorney to represent that defendant at arraignment or as soon thereafter as possible, and an order will be entered appointing that attorney.

## **Rule 22 - Recovery Court**

### **Sec. 22.01 Purpose and Nature of Program**

The mission of the Recovery Court is to reduce the crime rate by targeting and treating severe substance abusers within the 27th Judicial District. The Recovery Court is a post plea court. In most cases, a period of incarceration will be required; however, the length of confinement will generally be less than the defendant will receive if the defendant is not in Recovery Court. After confinement has been completed, the defendant will be on probation, but supervised by Westate Corrections as a condition of probation. Persons who do not successfully complete the program will not receive credit for the time on

probation. The program lasts approximately twenty-four (24) months and consists of four phases.

#### **Sec. 22.02 Eligibility Requirements**

To be eligible for Recovery Court a defendant must:

- \* Be charged with or convicted of a non-violent criminal offense in the 27th Judicial District
- \* Have had no past conviction involving violence
- \* Have a substance abuse problem
- \* Be willing to accept the terms and conditions of the program
- \* Have transportation available
- \* Reside in the 27th Judicial District
- \* Not be acutely mentally ill or suicidal.

#### **Sec. 22.03 Application Procedure**

Applications should be submitted immediately after arrest or indictment. If a defendant is accepted for the Recovery Court and has not been indicted, he or she will proceed to the Circuit Court through a criminal information. Persons who have already been convicted and sentenced are also eligible for the Recovery Court.

The application procedure is as follows:

- \* Submission of written application to the District Attorney General. Defendant's attorney must assist in the preparation of the application.
- \* Interview by probation officer
- \* Assessment by treatment provider
- \* Approval or rejection by the Recovery Court Team
- \* Appearance in Circuit Court for final approval by guilty plea (if not previously convicted) and sentence. A written contract will be signed by the defendant, the attorneys and the Court.

#### **Sec. 22.04 Treatment**

Treatment begins with a comprehensive assessment designed to identify the presence and extent of a Substance Use Disorder, mental status, motivation, strengths, weaknesses and general appropriateness for treatment of an applicant. If accepted by the Recovery Court Team, the defendant will begin the Program and will attend counseling four days per week. Defendants complete each phase by achieving certain treatment goals including abstinence, employment, attendance and compliance with group and supervision goals. Defendants spend less time in counseling with each successive stage. All treatment is individually tailored to address each person's addictive and criminal behaviors.

### **Sec. 22.05 Supervision**

Defendants in the Recovery Court will:

- \* Be subject to curfew restriction and/or electronic monitoring and will be seen at home by case officer and law enforcement officer at least once per week.
- \* Report to case officer twice per week.
- \* Complete a minimum of 100 hours community service work.
- \* Obtain and maintain employment.\* Make regular payments toward fines, court costs, restitution and supervision fees.
- \* Be subject to random drug screening in addition to being screened by treatment provider.

### **Sec. 22.06 Court Sessions**

The Recovery Court will meet on Fridays at the Obion County Detention Center. Defendants in the program shall appear in Court as directed by the Court.

### **Sec. 22.07 Incentives and Sanctions**

Incentives will be given to those who successfully complete various steps of the program. Sanctions will be imposed upon those who violate the terms of the probation and Recovery Court rules. The severity of the sanctions will depend upon the type of violation and the number of prior violations. The most severe sanction will be expulsion from the Drug Court which will require a sentence in the Tennessee Department of Corrections.

### **Sec. 22.08 Completion of Program**

Those persons who successfully complete the program will be placed on probation which shall be supervised or unsupervised in the discretion of the Court.

## **Rule 23 - Divorce Cases**

### **Sec. 23.01 Hearing Dates**

Divorce cases shall not be heard any sooner than sixty (60) days after filing and ninety (90) days after filing for divorces with children and irreconcilable differences. Uncontested cases may be set on motion days or on such other dates set by the Court.

### **Sec. 23.02 Affidavits Required in Contested Cases**

At least 48 hours before the date of the uncontested divorce trial, the parties shall file with the Clerk and provide a copy to the Court, the affidavit, executed by the party as to the real and personal property, setting forth, pursuant to the criteria of T.C.A. 36-4-121:

- (1) The real and personal separate property of each of the parties and the value thereof;

- (2) The real and personal marital property of the parties and the value thereof  
and  
(3) The remaining real and personal property of the parties and the value thereof, the character of which is to be decided by the Court.

If either party desires, they may additionally propose to the Court, at the trial, after complying with the foregoing paragraph, a division of all or part of the marital property. The Court is not bound by the proposals, but will give proper consideration to the wishes of the parties.

In all contested divorces, alimony, child support, and modification hearings, an affidavit of income and expenses in accordance with T.C.A. 36-4-116 shall be filed with the Clerk at least 48 hours prior to the hearing. Each party shall make a separate affidavit concerning income and expenses during the prior calendar year and each month of the present year up to and including the month of the hearing. A copy shall be served on opposing counsel and a copy shall be made available to the Court.

**Sec. 23.03 Permanent Parenting Plan, Parenting Education Seminar and Mediation in Domestic Relations Cases with Minor Children**

**General Provisions:** This rule is adopted to promulgate procedures to be followed in the Courts of Record in the 27th Judicial District of Tennessee so as to ensure that the intent of that legislation is carried out by those parties with children involved in domestic relations cases, by Clerks, by attorneys, by providers (parenting plan educators and mediators), and by the courts. If any provision herein is found to be in conflict with the legislation, the legislation will prevail.

A. **General Order:** The General Order for the 27th Judicial District is hereby adopted. All forms are available with the Clerk.

B. **Duties of Clerks:**

A. When a complaint for divorce or petition for modification in a post-divorce case is filed with the Clerk's office, the Clerk shall assure that the parenting plan package has been attached to the summons and has been made available to the filing party. 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. The same package will be included in the summons to the defendant/respondent.

B. **Package Contents:** The package shall contain the following:

- [1] The General Order and open letter from the judges (Forms 1 and 2);
- [2] The parents guide for education (Form 3);
- [3] The parents guide for mediation (Form 4);
- [4] The parents guide for developing a parenting plan (Form 5);
- [5] A list of approved educational providers;

[6] A list of mediators available in the district.

- C. The following documents will be made available by the Clerks to attorneys and parents upon request:

[1] Temporary Parenting Plan (Form 19);  
[2] Permanent Parenting Plan (Form 20).

- D. Check List: a check list (Form 10) 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.
- E. Issue a show cause order (Form 6) to any party who has not submitted a Certificate of Attendance from a parenting education seminar within 10 days of the date attendance is required (30 days from filing for plaintiff, 30 days from service for defendant.)
- F. Submit to the Judge for signature an Order to Mediate (Form 13) if the parties have not filed an agreed parenting plan within 120 days of service of process.

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

- A. Secure from the Clerk's office or otherwise all approved forms utilized under this rule;
- B. Furnish a copy of the package (§ 18.03 B. B. of this rule) to their client and explain the contents to the client;
- C. Attach a copy of the package to any summons filed on behalf of plaintiff/petitioner;
- D. Monitor their client's timely attendance at a parent education seminar.
- E. Assist client in selecting/reaching agreement as to an appropriate mediator if a parenting plan has not been timely agreed to by the parties.
- F. File with the complaint or answer an agreed to or proposed parenting plan on Form 20. If a temporary parenting plan is sought, a proposed temporary parenting plan (form 19) will be submitted to be acted on by the Court, if appropriate, ex-parte or at an early hearing. It is strongly suggested that the blanks in the form be filled out by hand and/or highlighted for easier review by the Court.
- G. Follow the Attorney's Guide to Mediation (Form 8).
- H. 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 MDA or decree.

- D. Duties of Providers:

- A. The Judges will receive and act upon applications from providers who seek approval to provide parent education seminars. A list of approved providers will be furnished to the Clerks to be included in the package.



- B. The Educational Providers will make all arrangements for time, place and fees for seminars to be conducted in no less than two hour blocks.

Seminar schedule for each provider will be provided to the Clerk to be made available to parents and attorneys.

- C. Educational Providers will notify the Courts by filing 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 from the seminar facilitator.
- D. Fees: 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 provide an appropriate number of pro bono slots for indigent persons.

**E. Mediators:**

[1] At anytime during the divorce proceedings, parents may choose to participate in a method of alternative dispute resolution and select their own mediator or arbitrator. However, if the Court is involved, either by the Court's own motion or by motion of one or both parties, the Court will appoint a mediator pursuant to 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 may submit a scheduling order to the Court including a referral to mediation or alternative dispute resolution or request for a waiver for just cause. The Court may designate a Rule 31 family mediator by Court order. A list of mediators who have met the Court's criteria will be provided to the attorneys and parents. The mediators' fees may be taxed as Court costs or the Court may determine the case is appropriate for pro bono mediation to be coordinated through legal services. The mediator is responsible for reporting to the Court pursuant to Supreme Court Rule 31.

**[2] Mediation Assignment:**

If the Court is involved, either by the Court's own motion or by the motion of one or both parties, a family mediator will be appointed pursuant to Supreme Court Rule 31.

A Rule 31 Family Mediator will be appointed by Court order (Form 14) **OR**,  
a referral to mediation is ordered by the Court (Form 13)  
**OR**,  
a referral to pro bono mediation is ordered by the Court (Form 16).

**[ ] Mediation Fees and Agreements to Mediate**

The parents may directly negotiate the fees with the mediator. An agreement to mediate (form 15) 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. Pro bono mediation will be coordinated by legal services. Each mediator must provide proof of 3 pro bono mediations to the Administrative Office of the Courts for annual reapproval.

#### **☐ Invoicing Procedures**

- [a] 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.
- [b] It is the mediator's responsibility to notify the Clerk's office that an invoice is included in the final report.
- [c] The invoice should include a docket number to ensure correct filing and payment.

#### **☐ Mediator Reports**

When a mediator has been appointed by the Court, reports will be filed with the Court pursuant to Supreme Court Rule 31. The reports include a 30-day report and final report (refer to Forms 12 & 12a).

**☐ Judicial Settlement Conferences** will not be available in cases affected by this rule, except on motion and a showing of exceptional circumstances that would make education not appropriate.

### **Rule 24 – Probate**

- (a) The verified petition filed to seek the appointment of a Personal Representative must comply with all provisions of T.C.A. § 30-1-117, including listing the names and addresses of the next-of-kin and estate beneficiaries. To assure compliance, the paragraphs of the Petition should correspond with the subsections of the statute.

A petition for Letters of Administration or Letters Testamentary which does not comply with this statute will not be filed by the Clerk.

- (b) At the time of the appointment, each Personal Representative is to sign a statement, furnished by the Clerk, acknowledging the duty to file required documents within sixty days.
- (c) The attorney for the Personal Representative shall file a motion within seventy days of the issuance of the Letters Testamentary or Letters of Administration seeking additional time to file documents and pleadings if all required notices, affidavits, and other pleadings have not been filed. Required documents include the affidavit that the

required notice to the residuary beneficiaries and next-of-kin has been sent, the affidavit that the Bureau of TennCare has been notified; and the Inventory, unless the Inventory is waived by the Will filed for probate or by all residuary beneficiaries.

If a motion seeking additional time, or the required documents, has not been filed, the Clerk is to schedule a hearing before the Court, with Notice to the Personal Representative, and the Notice is to identify the documents which are to be filed. All court costs for this hearing, at the discretion of the Court, are to be assessed to the Personal Representative.

- (d) If an Accounting cannot be timely filed, and unless waived by all interested parties, the Personal Representative is to file a motion seeking additional time to file any Accounting required by T. C. A. § 30-2-601. This Motion is to include a Notice of the scheduled hearing with a Certificate of Service to all estate beneficiaries, attorneys of record, and interested parties.
- (e) Fees payable to the Personal Representative and to the attorney for the Personal Representative can be denied or reduced, at the discretion of the Court, for failure to timely file required documents.
- (f) In lieu of filing a Motion as required by Rule 19(c) or Rule 19(d), the Personal Representative may cause an agreed Order to be submitted for consideration by the Court postponing the action until a time certain if the Agreed Order is signed by all parties affected and their counsel, and approved by the Court.
- (g) Fees for the Personal Representative and attorneys are to be approved by the Court prior to payment from estate funds.

## **Rule 25 – Appearance and Conduct of Counsel**

### **Sec. 25.01 Conduct of Counsel**

(a) At trial, counsel will avoid use of first names and other expressions of familiarity with adult witnesses, jurors, opposing counsel, and all other persons present. During opening statements or closing argument, no juror will be addressed individually by name.

(b) Objecting counsel will state the legal grounds for an objection without argument or discussion. There shall be no speaking objections. Attorneys shall stand when making objections.

(c) No attorneys, parties, or any other persons who have an interest in a case set for trial will engage in any kind of conversation with any juror serving in any court of record. Once the juror's service is complete and the juror is excused from jury service, attorneys may interview jurors consistent with Supreme Court Rule 8.

### **Sec. 25.02 Contacting Judge**

Neither counsel nor a party to a pending action will communicate ex parte with the Judge before whom the matter is pending except consistent with the Code of Professional

Conduct, the Code of Judicial Ethics, and Rule 13 of the Rules of the Supreme Court of the State of Tennessee.

#### **Rule 26 – Media Guidelines**

The media guidelines adopted by the Tennessee Supreme Court are incorporated herein by reference.

#### **Rule 27 – Dismissal for Lack of Prosecution**

Whenever a cause has remained on the docket for twelve (12) months or more without steps being taken by the plaintiff to dispose of the cause, the opposing parties shall be entitled, upon motion with service to all parties, to request the court for a dismissal of the cause with prejudice at Plaintiff's costs. The court may on its own motion dismiss the case.

#### **Rule 28 – Investing Funds per Court Order**

The Clerk's office shall invest litigant's funds paid into the court only if there is a court order directing them to do so. The funds shall be invested in a federally insured deposit account. At the time of payment or when the order is entered, if later, it shall be the DUTY OF THE ATTORNEY seeking investment of funds to specifically notify the Clerk receiving payment that the funds are to be invested and to provide an IRS form W-9 to the Clerk's bookkeeping department for the party responsible for tax liability. Funds shall not be withdrawn without an Order of the Court.

#### **Rule 29 – Alternative Dispute Resolution**

Upon agreement of the parties or upon order of the court any matter may be referred to a Mediator for a potential resolution of the issues in that cause. The costs of any alternative dispute resolution proceeding, including the costs of the services of the Rule 31 dispute resolution Mediator may be charged as court costs at the Mediator's request.

#### **Adoption of Rules**

These Uniform Local Rules of Court for the Twenty-Seventh Judicial District are hereby adopted and shall take effect on the 23<sup>rd</sup> day of September, 2019.

**Jeff Parham**  
**Circuit Court Judge**

**W.Michael Maloan**  
**Chancellor**