

**SEVENTH JUDICIAL DISTRICT
ANDERSON COUNTY, TENNESSEE
LOCAL RULES OF COURT
CIRCUIT, CHANCERY, PROBATE
AND CRIMINAL DIVISIONS**

Effective June 23, 2006

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PART I: IN GENERAL

**RULE 101 - RULES OF COURT: APPLICABILITY
SUSPENSION & DEFINITIONS**

EFFECTIVE JUNE 23, 2006

101.01 Former Rules Abrogated

All former rules of local practice except as readopted herein are abrogated.

101.02 Applicability

Each rule is applicable in each Division of the Seventh Judicial District of Anderson County unless otherwise indicated by a particular rule. Each rule in Part #100 is applicable in all cases in all COURTS unless otherwise indicated by a particular rule. Each rule in Part #200 is applicable to all cases in CHANCERY/PROBATE COURT unless otherwise indicated by a particular rule. Each rule in Part #300 applies to all cases in CRIMINAL COURT unless otherwise directed by a particular rule. When a rule's applicability is designed to apply to a particular type of case (e.g. Civil Cases, Criminal Cases, Chancery Cases, or Probate Cases) it is applicable to all cases of that type regardless of which division is hearing the case.

101.03 Suspension of Rules

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

101.04 Definitions

The following definitions apply to terms used in these rules:

CLERK: The CIRCUIT COURT CLERK, the CLERK and MASTER of the CHANCERY COURT, and the CRIMINAL COURT CLERK, as applicable or their designees.

SECRETARY: The SECRETARY of the JUDGE where indicated.

101.05 Citation

These rules may be cited as "Local Rules of Practice. Sec. _____".

101.06 Time

Time shall be calculated by the Tennessee Rules of Civil and Criminal Procedure.

RULE 102 - ASSIGNMENT AND DISPOSITION OF CASES

102.01 Interchange of Judges

When necessary for the efficient administration of justice, a JUDGE may hear and determine any matter by interchange for another JUDGE without necessity of transferring the case from one COURT to another or from one division to another.

102.02 Transfer of Cases

The JUDGES may transfer cases among themselves by mutual consent. It is not necessary that the parties or their counsel consent to such transfer. A party requesting a transfer of a case from one division to another division will obtain an Order from the COURT in which the case is filed, transferring the case. Any litigation tax or filing fees will be repaid and a re-execution of a performance bond may still be required.

RULE 103 - COURT SESSIONS

103.01 Time

Each regular session of the CIRCUIT, CRIMINAL and CHANCERY COURTS of Anderson County will convene each Monday through Friday at 9:00 A.M. and will recess from time to time as the COURT finds necessary.

103.02 Trial Calendar

Unless otherwise directed by the Court, the Criminal docket will be set for the first and third full weeks of every month and the Civil docket will be set the second and fourth full weeks of every month.

Those days on the beginning of or ending of a month where a partial week ends or begins will be committed to the Civil docket when appropriate.

RULE 104 - APPEARANCE AND CONDUCT OF COUNSEL

104.01 Counsel of Record: Entry of Appearance and Notice to Clerk

All counsel who have entered an appearance in a case will be counsel of record. Entry of an appearance shall be made in one of the following ways:

- (1) A written request by counsel to the CLERK that an appearance be entered;
- (2) The filing of a pleading; (**CAVEAT - see paragraph 6**)
- (3) The filing of a formal notice of appearance;
- (4) Appearance as counsel in open COURT; (**CAVEAT - see paragraph 6**)
- (5) Appearance at a docket call; (**CAVEAT - see paragraph 6**)
- (6) Unless the CLERK is notified in writing of the appearance of an attorney in Civil cases with address and phone number; the setting and dismissal of cases will be accomplished without "notice" to the attorney. **CAVEAT - This rule requires the attorney to formally notify the clerk in writing of the appearance in behalf of a client. Physical appearance of the attorney or client, nor the mere announcement, nor the filing of**

papers or documents will be deemed sufficient to receive notice. There must be the "Notice of Appearance" in the COURT file.

104.02 Withdrawal of counsel

No attorney may be allowed to withdraw except for good cause and by leave of COURT upon motion after notice to the parties.

104.03 No Appearance Entered: Copies of Pleadings

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

104.04 Conduct of Counsel

(a) During trial, counsel shall not exhibit familiarity with witnesses, jurors, or opposing counsel and the use of first names for adults shall be avoided. During opening statement or argument, no juror shall be addressed individually by name.

(b) Bench conferences should be requested only when absolutely necessary in aid of a fair trial.

(c) Counsel should refrain from interrupting the COURT or opposing counsel until the statement being made is fully completed, and should respectfully await the completion of the COURT'S statement or OPINION before undertaking to point out objectionable matters. When objection is made to a question asked, counsel should refrain from asking the witness another question until the COURT has had an opportunity to rule upon the objection. Objecting counsel shall state the legal grounds without argument or discussion except by leave of COURT.

(d) Unless permission is granted by the COURT, attorneys shall stand while examining witnesses or addressing the jury or the COURT.

104.5 Contacting Jurors

(a) Before Trial: All attorneys will fully comply with Rule 8, DR 7-108 of the Rules of the Tennessee Supreme Court.

(b) After Trial as it Relates to Trial Jurors: After a case is heard and decided by a jury, no attorney or party will discuss the case with a member of the jury panel hearing that case unless the attorney or party reminds the juror that the juror is not required to discuss the case with the person or attorney.

Nothing shall prevent a juror from contacting an attorney or party and discussing the case with the person contacted.

However, Rule 606(b) of the Tennessee Rules of Evidence should be consulted by the attorney concerning any issue pertaining to the validity of the jury verdict.

104.6 Intra-Professional Conduct

(a) During presentation of matters in open COURT counsel shall refrain from addressing opposing counsel, but direct all comments and questions to the COURT.

(b) Standards of Intra-Professional Conduct:

1. A lawyer should avoid taking action adverse to the interests of a litigant known to be represented without notice to adversary counsel sufficient to permit response.
2. A lawyer should promptly respond to attempts by other lawyers to contact them, whether by telephone or correspondence.
3. A lawyer should respect opponent's schedule by seeking agreement on deposition dates and COURT appearances (other than routine motions) rather than merely serving notice.
4. A lawyer should avoid making besmirching accusations of unethical conduct toward an opponent.
5. A lawyer should not engage in intentionally

discourteous behavior for the purpose of obtaining an advantage.

6. A lawyer should never intentionally embarrass another attorney and should avoid personal criticism of opponent in the presence of a client or other counsel.
7. A lawyer should not seek sanctions against or disqualification of another attorney unless necessary for the protection of a client and fully justified by the circumstances, and never for the mere purpose of obtaining a tactical advantage.
8. A lawyer should strive to maintain a courteous tone in correspondence, pleadings, and other written communications.
9. A lawyer should never intentionally mislead or deceive an adversary and should honor promises or commitments made.
10. A lawyer should acknowledge that the conflicts within which they are involved is professional and not personal and should endeavor to maintain a friendly and collegial relationship with his or her adversaries. In short, a lawyer should "leave the argument at the courtroom door."

104.07 Contacting Judge

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

104.08 Judges' Chambers

The JUDGES' CHAMBERS and staff offices will be respected by the attorneys and their clients so that an orderly discharge of

business can be conducted by the JUDGE and his staff.

RULE 105 - COURT FILES

All papers and records of the COURT shall be in the custody of the CLERK. Files may be withdrawn only by counsel of record at any time with permission of the CLERK or JUDGE. Depositions and records of administrative tribunals may be withdrawn with permission of the CLERK. Copies of the content of files shall be furnished by the CLERK at a reasonable cost.

(The CLERK may establish such procedures as necessary to observe this rule and for the purpose of preserving the record with appropriate court order.)

RULE 106 - FILING AND SERVICE OF PAPERS

106.01 Filing with the Clerk

All papers, including pleadings, motions, briefs, and proposed judgments and orders shall be filed or noted by the CLERK with appropriate notation. All judgments and orders, after signed by the JUDGE, shall be filed and entered on the minutes in due course after filed with the CLERK. Papers should not be mailed to or left with the JUDGE, except under unusual circumstances and when the CLERK of the COURT is unavailable. All subsequent pleadings prepared by attorneys shall indicate on the face thereof the number of such case as it appears on the Rule Docket. The title of the pleading and the party or parties seeking a relief or claim in the pleading should be prominently noted in the "Caption." (See Rules 109, 115 and Sample)

106.02 Names and Addresses of Parties

The names and addresses of all plaintiffs and defendants involved in the litigation will be included in the style of the

case; or if due to the number of litigants, the name and address may be included in the body of the complaint. (See Sample)

106.03 Certificate of Service

All papers, except those signed by all parties or their counsel, must contain a certificate of service which must contain the date of service and the name of the person or persons served and other information required by the local rules. The attorney or person filing papers will furnish to the CLERK a specific location where parties can be found. The CLERK may refuse to file papers without a certificate which complies with these rules and all applicable rules of Civil and Criminal or Appellate procedure.

²106.04 Fax Machine

The facsimile filing of papers shall be consistent with and in compliance with Rule 5A of the Tennessee Rules of Civil Procedure, the same being incorporated herein by reference as if copied herein verbatim.

106.05 Consolidated Cases

When Civil cases are consolidated for trial an Order of Consolidation should be submitted to the COURT for approval and filed with the CLERK. The CLERK will consolidate these files into the lowest docket number and all future pleadings should reflect this lower number.

RULE 107 - TRIAL CALENDARS

Daily trial calendars will be prepared by the CLERK or the SECRETARY. When possible, a copy of the daily calendar will be

²Rule 106.04 Revised 6/21/06

posted outside the courtroom of each COURT. **It is suggested that all attorneys consult TCA 20-9-101 thru TCA 20-9-510 for legal authority for trial procedure.**

RULE 108 - ATTORNEY FEES

Whenever it is necessary for the COURT to fix fees of attorneys, the attorney shall file a sworn affidavit with a schedule of time and activities spent on the case, a statement of his fee arrangement with his client, if any, and a suggestion of the amount of a proper fee or any other information requested by the COURT.

RULE 109 - ATTORNEY'S SIGNATURE

Pursuant to Rule 11 of the Tennessee Rules of Civil Procedure and this Local Rule, all pleadings, orders, briefs and other papers submitted for consideration shall be personally or facsimile signed by the attorney and his or her individual name, style of the case, telephone number, (Board of Professional Responsibility Number) and address contained thereon and plaintiff's and defendant's address. (See Rule 115.01 and Sample)

RULE 110 - SMOKING

There will be no smoking in the Courtroom nor is smoking allowed in the Courthouse. If during a recess of court proceedings an attorney plans to leave the Courthouse to smoke, it must be with approval of the COURT so the hearings will not be delayed.

**RULE 111 - PHOTOGRAPHS, VIDEOS, SOUND RECORDING
AND BROADCASTING**

Supreme Court Rule 26 and Rule 10, Cannon 3, of Rules of the Tennessee Supreme Court: No Court proceeding shall be photographed, video taped, sound recorded, or broadcast without advance Court permission and consent of the parties and then only in accordance with such limitations as the Court may set to promote the administration of justice, and then only when in full compliance with appropriate Rules of the Tennessee Supreme Court.

RULE 112 - FEES

If approval in writing of all interested parties is not obtained, all requests for fees shall be approved by the Court by Order upon written application, supporting affidavits and notice. All applications for fees shall be supported by affidavits including the amount of time expended, the nature of the effort undertaken, and such other pertinent information as may be called for. Applications shall include a certificate of service on all interested parties.

RULE 113 - FUNDS PAID INTO COURT

Except as provided in Rule 68 of the Tennessee Rules of Civil Procedure, Eminent Domain cases or other rule of law, no litigant funds shall be paid into court without the COURT'S order. Funds paid into court are not invested for the benefit of the litigants unless the COURT so directs. Upon COURT order, the CIRCUIT COURT CLERK or the CLERK and MASTER shall invest the

litigants' funds into a qualified financial institution to receive the highest and best interest available, considering the circumstances involved. In the event the funds are to be invested at a particular institution, or to be invested in a particular type of account, the order of the COURT shall specify. The Taxpayer Identification Number or Social Security Number of all potential recipients of the funds shall be included in the order submitted to the COURT. It is the duty of the attorney or litigant seeking investment of the funds to specifically call to the attention of the CIRCUIT COURT CLERK or the CLERK and MASTER that the funds are to be invested.

RULE 114 - NON JURY DOCKET

MONDAYS AND FRIDAYS

CIRCUIT AND CRIMINAL COURTS

The COURT will first inquire as to announcements on non-contested matters. After announcements, motions will be considered before contested cases. Contested non-jury cases will normally be tried in the order of the time committed to dispose of the case. Cases having a greater duration for COURT time will be those last to be heard unless otherwise directed by the COURT.

Attorneys having business in other COURTS must give notice to the COURT SECRETARY and/or the CLERK or sanctions will be imposed.

RULE 115 - JURY DEMAND

(SEE RULE #202 OF CHANCERY COURT)

115.01 Jury Demand

In any civil case in which a jury is demanded, the words

"JURY DEMAND" shall be typewritten in capital letters on the first page of the pleading opposite the style of the case below the space reserved for the case number. Failure to note as described may result in the Jury Demand being dishonored. (See Rule 109, 106.01 and Sample)

115.02 Number of Jurors

In all Civil cases, the parties may stipulate that the jury will consist of any number of persons less than twelve. Unless otherwise expressly demanded, the CLERK will provide a six person jury. The demand should be: "12 Person Jury Requested" and this should be prominently displayed beneath the place reserved for a designated case number. (See Sample)

115.03 Challenges - Minority or Female Juror

(a) The six person jury rule will not affect the number of challenges nor the manner of making them. Back-striking is allowed. Attorneys will submit legible challenges to the COURT.

(b) To insure due process of law to all jurors, the COURT will expect from the attorney exercising the peremptory challenge a specific reason for excusing members of racial minorities and female jurors. The reason will be stated in the challenge on the record, out of hearing of the jury, and preferably at a bench conference and the minority class or gender will be referred to on the record.

This will be accomplished before the juror (subject to the peremptory challenge) leaves the courtroom.

In the event the COURT finds the excuse is racially or gender motivated or there is no just reason for the excusing of the juror other than race or gender, the juror will be allowed to remain as a qualified juror.

RULE 116 - DISCOVERY

116.01 Discovery Pleadings

Pursuant to the provisions of Rule 5.05 of the Tennessee Rules of Civil Procedure, depositions, interrogatories, and requests for documents shall not be filed with the CLERK'S office except by ORDER of the COURT. However, relevant portions of discovery documents may be filed in support of contested motions.

116.02 Responses to Discovery

Pursuant to the previous rule (116.01), responses to discovery and objections shall not be filed with the CLERK'S office except by ORDER of the COURT or for use in the proceedings.

(Comment: The purpose of Rules 116.01 and 116.02 is to reduce redundant paper in the COURT'S file and to reduce storage costs. Rule 5.05 of the Tennessee Rules of Civil Procedure permits the COURT to adopt this rule as a Local COURT Rule, which shall constitute an "ORDER" on the COURT'S initiative. Requests for admissions are deleted from the suggested rules because of the importance of such requests, and the failure to answer same, as being a part of the trial evidence.)

116.03 Interrogatories

No set of interrogatories shall exceed thirty questions per party without prior leave of the COURT. Any interrogatory that contains subparts shall be counted as one interrogatory as long as each subpart is closely related to the original question. Should it appear to the COURT that a party has used subparts as a means to circumvent the limitation on the number, the party, along with the filing attorney, may be subjected to sanctions. Answers to interrogatories must be supplemented as may be required by the Tennessee Rules of Civil Procedure.

(Comment: This proposed rule reads the same as the appropriate discovery rule in the Eastern Division of the United States District Court. This rule is obviously designed to place

reasonable limits upon discovery interrogatories that are propounded so as to prevent undue harassment and accumulation of paper which may have to ultimately be filed with the COURT. In the complicated cases, the rule allows the COURT, upon application by the requesting party, to propound additional interrogatories.)

116.04 Discovery Disputes and Controversies

All motions concerning discovery or requests for admissions pursuant to Rules 26 through 27 of the Tennessee Rules of Civil Procedure shall be accomplished by a certificate of counsel affirming that, after consultation between the parties to the controversy, they are unable to reach an accord. The certificate must contain the names of counsel participating and the manner of consultation. The burden will be on counsel filing the motion to initiate a conference attempting to resolve discovery disputes. Failure to file an accompanying certificate of consultation may be deemed good grounds for denying any motion concerning discovery or requests for admissions. If relief is sought under Rule 26.03 or Rule 37 of the Tennessee Rules of Civil Procedure concerning any requests for discovery, copies of the portions of the interrogatories, requests, answers, or responses in dispute shall be filed with the motions. The filing or serving of unnecessary discovery motions, applications, requests, or objections will subject the offender to appropriate remedies, including the imposition of costs and counsel fees.

(Comment: This rule is obviously designed to limit discovery disputes and the COURT'S involvement in same.)

116.05 Motions to Compel Discovery

All motions to compel discovery will be accompanied by a proposed order which will be entered ten days after filing unless the adverse party requests a hearing. Frivolous demands for hearings will be discouraged.

(Comment: This rule is similar to the rule in Knox County Circuit Court concerning motions to compel discovery. It seems to be an additional method by which discovery disputes can be

resolved without the direct involvement of the COURT.)

116.06 Inspections Made Pursuant to Court Order

When any party to any action before the COURT is permitted, pursuant to an ORDER of the COURT, to inspect the records of any person not a party to the action, the party inspecting such records shall, within a reasonable time period, provide all other parties to the action with an opportunity to copy any document obtained or copied as a result of such inspection.

(Comment: This rule is taken almost verbatim from the Local Rules of the United States District Court for the Eastern District.

116.07 Video Depositions - Use for Video Discovery

Video depositions shall be taken and/or used only in strict compliance with the Tennessee Rules of Civil Procedure. Any party offering a video deposition into evidence shall make adequate preparations for stopping the recording at the appropriate time, if objections are made, and for eliminating portions of the deposition which the COURT finds to be inadmissible. The party shall also take adequate steps to insure that the deposition is presented in such a fashion as to preclude unnecessary description at trial. Video discovery may be denied if application be timely and meritoriously presented for COURT protection.

116.08 Discovery Completion - 30 Day Rule

IN ALL JURY TRIALS, discovery should be completed so that cases will be heard without continuing the case.

In no event will a case be continued because discovery is not complete unless within 30 working days before trial a motion for a continuance is filed and scheduled to be heard setting forth the reason or reasons why discovery is not complete. If the motion for continuance is not heard expeditiously so that justice and the Court docket are served, then in that event, the

COURT may deny the continuance or impose appropriate sanctions.

(Comment: Attorneys are reminded 130.01 provides that after two (2) years dormant cases are stricken from the docket. One of the purposes of this rule is to provide the maximum use of both Chancery and Circuit Court dockets by providing sufficient lead-time to reset the docket for jury and nonjury or domestic cases.

RULE 117 - MOTIONS IN CIVIL CASES

117.01 Time for Filing Pretrial Motions

All motions will contain in the caption the subject matter of the motion and the party addressed.

Pretrial motions, which can be dispositive on one or more issues in a case on the merits, must be filed or disposed of 10 days prior to trial. This rule still allows for motions in limine, etc.

³117.02 Time for Filing Responses to Motions

Responses to motion, including counter-affidavits, depositions, briefs or any other matters being presented in oppositions to motions must be filed and served no later than 48 hours prior to the hearing on the motion.

117.03 Briefs on Motions and Responses

Every motion which may require the resolution of an issue of law and every motion in which legal authority is relied upon may be accompanied by a memorandum of law and facts in support thereof. The JUDGE may order briefs on his own motion at any stage. Reply briefs must be filed and served no later than 24 hours in advance of the hearing on the motion so that judges and chancellors may review all pleadings before oral argument.

117.04 Setting for Hearing and Notice

(a) Time for Hearings

³Rule 117.02 Revised 6/5/95

Motions will be heard in Circuit Court and Chancery Court at 9:00 A.M. on Mondays and Fridays.

(b) Docketing Motions for Hearing

All motions filed before the closing business day on Friday cannot be set before the following Monday week unless otherwise directed by the COURT.

(c) Notice to Opposing Counsel/Clerk

The motion must contain a "Notice of Hearing" having been given or served on the opponent of the motion within the times contained in 117.04(b), otherwise, the CLERK will not set the motion on the docket for hearing.

(d) Not Called - Abandoned

It shall be the responsibility of the moving party to call all pretrial motions for hearing as far in advance of the trial date as is reasonably possible. All such motions not called for hearing prior to trial date will be deemed to have been abandoned unless otherwise ordered by the COURT for good cause shown.

117.05 Striking or Postponement of Motions

After a motion has been docketed, no party may strike or postpone a motion without the agreement of all parties. In the absence of an agreement, the COURT may order postponement of a motion hearing upon motion. If a motion is to be stricken or postponed by agreement, counsel shall notify the CLERK or³ SECRETARY as soon as practicable. If any party strikes or postpones a motion without agreement of all parties of record or without leave of COURT, the COURT may tax as costs reasonable fees and expenses to any party who appeared at the scheduled hearing.

117.06 Agreed Orders

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

117.07 Waiver of Oral Argument

Oral argument may be waived by agreement of the parties. If oral argument is waived, counsel shall advise the CLERK or SECRETARY prior to the hearing or may so announce at the hearing.

117.08 Failure to Appear at the Motion Hearing: Late Appearance

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

117.09 Motion on Oral Testimony

Hearing on motions where testimony will be offered shall be scheduled as provided in Rule 117.01 of these rules.

117.10 Special Setting of Motion

Where special circumstances warrant, motions may be specially set at times other than on the motion docket by approval of the COURT or SECRETARY.

RULE 118 - SETTING CASES FOR TRIAL AND CONTINUANCES

12:00 NOON CONTINGENCY

118.01 Method of Setting

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

- (a) By agreement of counsel after consultation with the COURT'S SECRETARY and/or CLERK in CIRCUIT and CRIMINAL

cases, or the CLERK and MASTER'S office and/or SECRETARY in CHANCERY and PROBATE cases.

- (b) By motion.
- (c) By docket sounding in Circuit cases; and
- (d) By the COURT with notice to counsel.

118.02 Certifying Cases Ready When Set

When a case is set by docket sounding or agreement or when a case is set by motion, without objection to having it set, all counsel are certifying that the case will be in all respects ready for trial on the trial date.

118.03 Deadline for Trial Preparation

When a party objects to having a case set because trial preparation is not complete, the COURT may establish a deadline for completing trial preparation. (See Rule 116.08)

118.04 Continuances

- (a) Jury and nonjury cases may not be continued by agreement and may be continued only by leave of COURT. Cases will not be continued except for good cause which shall be brought to the attention of the COURT as soon as practicable before the date of the trial.

(Comment: Secretaries of the various attorneys have been calling to continue the nonjury cases. This practice should be discontinued with the attorneys personally requesting continuances even on nonjury matters.

- (b) Failure of a material witness to appear at the trial shall not be grounds for a continuance unless a subpoena was issued not less than 10 days before the trial date for witnesses residing in the county and for witnesses residing outside the county, and then only upon a proper showing by affidavit that the witness is in fact a material witness.

- (c) When a case is set by agreement or set upon motion without objection to have it set, failure to have completed discovery, unavailability of counsel on the trial date, inability to take a deposition, or failure to have completed any other trial preparation will not be grounds for a continuance. (See Local 30-Day Rule 116.08)
- (d) In cases continued, the COURT may award expenses and attorney's fees, including compensation to witnesses for lost income and/or travel expenses.
- (e) All continuances granted shall be reflected by proper ORDER of the COURT setting forth which party continued the case, the reason for the continuance and providing a new trial date agreeable to all counsel and the new trial date reflected in the continuance order. Also, the order shall reflect the fact that the COURT has given approval for the continuance. The new trial date to which the case is continued **may not be given a priority setting**, even though the continued case has a lower case number, unless priority is given by the COURT and so reflected in the continuance order.

118.05 12:00 Noon Contingency

- (a) If a primary jury case is still scheduled for trial at 12:00 Noon on the last work day preceding the trial date, any cases set for alternates on the same date shall be continued. If a primary case is removed from the docket for any reason prior to 12:00 Noon on the last working day preceding the trial date, the alternate case shall be for trial; therefore, all alternate cases are expected to be ready for trial. Any alternate case not reached because another case was tried on the date originally set may be

immediately set for trial at the first available date agreed upon by all parties and after consultation with the CLERK and/or SECRETARY and an order shall be prepared by plaintiff's attorney reflecting the new date.

- (b) The CLERK and/or SECRETARY will notify attorneys or parties as soon as possible when alternate cases are for trial; however, primary responsibility rests with the attorneys or parties to be aware of the status of their cases.

118.06 Scheduling Cases for Trial

- (a) In the absence of COURT approval and Rule 118.04(e) the lower case number has priority.
- (b) The CIRCUIT COURT JUDGE will hold regular docket sounding on the first Monday in February, June, and October for the purpose of setting the docket and scheduling cases. The COURT will also schedule such alternate cases as efficiency requires. Since the docket sounding is established by these rules, lack of notice of docket sounding will not be an accepted excuse for failure to attend.
- (c) All attorneys or parties with cases pending, which have not been set for trial, will be expected to attend docket sounding in person or by representative, provided, however, that all representatives shall be members of the bar except as may otherwise be permitted by rule of the TENNESSEE SUPREME COURT. Absence from docket sounding may result in the COURT scheduling cases for trial on any available date and conflicts in scheduling will not be an acceptable ground for granting a continuance except under extraordinary circumstances.

- (d) Nonjury matters may be scheduled by the attorneys contacting the CLERK and/or the SECRETARY of the respective COURTS by and upon proper notice to counsel or parties. When nonjury matters are scheduled for trial, counsel will furnish the CLERK and/or SECRETARY with a realistic estimate of the time required for trial. Such nonjury matters must be set for trial not less than 10 days before the trial or hearing. Cases requiring at least one full day for trial should be called to the COURT'S attention for special settings.
- (e) Nonjury cases will be called for trial and tried in the order in which they are set for trial. (See Rule #114) All parties and their attorneys are expected to be in attendance when their cases are called.
- (f) Nonjury appeal cases will be set for trial at the earliest nonjury trial date. Appeal cases requesting a jury will be set promptly by the CLERK and/or COURT SECRETARY.

118.07 Settlement of Cases

- (a) Compromise and settlement of cases are encouraged. Attorneys shall immediately notify the CLERK'S office and JUDGE'S office of settlements. All orders submitted to the COURT which reflect settlement or dismissal of an action which is currently set for trial shall in **bold type set forth the trial date** of such settled case.
- (b) Settlement of jury cases not communicated to the CLERK'S office immediately prior to 12:00 Noon of the prior business day of the trial date shall make the parties equally responsible for all costs associated with the jury and of jurors. Court cost must be

assessed before orders are entered with addresses for party or parties responsible for cost.

118.08 Priority Docket

There shall be maintained by the JUDGE'S and CHANCELLOR'S SECRETARY a docket for cases to be expedited or advanced by agreement of counsel for trial. Attorneys desiring placement of a case on this docket shall contact the JUDGE'S SECRETARY.

Requirements for this docket shall be as follows:

- (a) A written request signed by all attorneys of record stating their willingness to expedite their case for trial will be considered by the COURT and will be set for trial if docket time is available.
- (b) Habeas Corpus cases and Worker's Compensation cases will be given priority over other nonjury cases set for trial. Criminal cases will be given priority over Civil cases. Jury cases which have been in the process of trial and take longer than originally committed to the COURT docket will, in the absence of COURT order, be tried to conclusion.

RULE 119 - PRETRIAL PROCEDURE

⁴119.01 List of Witnesses - Inspection of Exhibits

In all Civil actions set for trial on the merits, at least 10 days prior thereto:

- (a) The names, phone numbers, if known, and addresses of witnesses shall be furnished opposing counsel and filed with the clerk. Any other witnesses will not be allowed to testify unless good cause is shown for failure to timely disclose and further showing opposing

⁴Rule 119.01(a) Amended 6/21/06

counsel was promptly furnished the name, address and telephone number of the witness to be called.

- (b) Copies of all trial exhibits which are proposed to be offered shall be available for inspection at reasonable times.

119.02 Pretrial Conference

A pretrial conference may be scheduled by the Trial COURT in complicated litigation, such as:

- (1) Products Liability
- (2) Medical Malpractice
- (3) Construction/Contract
- (4) Other Complex Litigation

119.03 Discovery Complete - Thirty Day Rule

Thirty days before trial all discovery will be complete. No case will be continued if discovery has not been completed unless first complying with **Local Rule 116.08**.

(Comment: This Rule is to avoid the natural inclination of lawyers in not giving priority to cases sufficiently in advance of trial. The Civil docket in Anderson County provides at least 8 months to a year's time for trial preparation and a 30-day before trial rule to complete discovery in the local rules may avoid what is now the most common reason given for request for continuances. Legal secretaries and paralegals could greatly facilitate this rule at the time of filing lawsuits to mark the calendars for the accomplishment of full discovery.)

⁵119.04 Proposed Jury Instructions and Proposed Jury Verdict Form

No later than noon five (5) days prior to trial the attorneys for both the Plaintiff and Defendant shall jointly submit proposed jury instructions as well as a jointly proposed jury verdict form. Any jury instructions that the parties cannot agree upon shall be filed separately by the party that desires to have that jury instruction(s) specifically charged at the same

⁵Rule 119.04 added 6/21/06

time as the jointly submitted jury instructions. Likewise the jury verdict form shall have any specific separate forms filed on which the parties cannot agree, by the party who wants the Court to use said form or forms, and these likewise shall be filed at the same time as the jointly proposed jury verdict form.

(It is the intention of the Court, under this rule, that the parties jointly communicate and jointly prepare both the proposed jury instructions and jury verdict form, and that they jointly file the same. It is further the intention of the Court, under this rule, that only those jury instructions and/or jury verdict form that cannot be agreed upon be filed separately.)

6119.05 Pre-Trial Scheduling Order

Within five (5) days of the setting of all civil cases for trial, whether they are bench trials or jury trials, and whether they are set at "docket sounding" or by agreement of all counsel and the COURT, a "Scheduling Order", prepared and signed by counsel for the parties to the case, shall be submitted to the COURT for entry on the record addressing the following:

- (1) The "ten (10) day rule" as it pertains to witnesses as set out in Local Rule 119.01(a).
- (2) The "ten (10) day" rule as it pertains to exhibits and as set out in Local Rule 119.01(b).
- (3) The setting of the Pre-Trial Conference for those specific cases involving Products Liability, Medical Malpractice, Construction/Contract, or other Complex Litigation as set out in Rule 119.02.
- (4) The "thirty (30) day" rule for discovery as set out in Rule 119.03.
- (5) The filing of Proposed Jury Instructions and Jury Verdict Form in all jury trial cases as set out in Local Rule 119.04 and Local Rule 202.02 and Local Rule

⁶Rule 119.05 added 6/21/06

202.03.

- (6) For jury trials in Chancery Court also file, pursuant to Local Rule 202.02 the "issues for the jury."
- (7) For jury trials in Chancery Court also file, pursuant to Local Rule 202.03 the jury instructions.
- (8) The parties and their counsel shall meet the morning of the trial well in advance of the scheduled trial time, to pre-mark all exhibits prior to trial.
- (9) All preliminary motions and all motions in limine shall be filed no later than thirty (30) days prior to trial and shall be heard no later than ten (10) days prior to trial.
- (10) All depositions for proof by the parties shall be concluded no later than twenty (20) days prior to trial.
- (11) Any stipulation of the parties shall be reduced to writing and signed by counsel for each party and filed with the clerk at least two (2) days prior to trial.

RULE 120 - SETTLEMENT PLAN - TEN DAYS BEFORE TRIAL

Ten days prior to trial the attorneys must discuss a settlement plan. Failure to contact respective counsel to discuss settlement may result in sanctions. All counsel of record have the burden of contacting other counsel under this rule.

RULE 121 - EXHIBITS

121.01 Depositions and Discovery Material

- (a) Contents of depositions and discovery material

submitted to and admitted by the COURT as evidence shall be made trial exhibits but not submitted to the jury except when read in open COURT.

- (b) No proposed exhibits will be shown to the jury until duly admitted into evidence and appropriately marked.
- (c) All trial exhibits shall be accounted for and placed in the custody of the CLERK, unless otherwise directed by the COURT. Large cumbersome exhibits will be withdrawn by counsel with the record preserving this fact and the COURT may allow, at the parties expense, substitution and duplicates of the original documents and photographs of large, intrinsically valuable, or sentimental exhibits.

121.02 Disposition of Exhibits

After final determination of any case, the parties shall have 30 days to withdraw exhibits pursuant to law. The CLERK may destroy or dispose of exhibits not so withdrawn.

RULE 122 - ORDERS AND JUDGMENTS

⁷122.01 Orders - Title of Subject

All orders of continuance should contain in the caption the old trial date and the new trial date and all other orders submitted should contain in the Caption of the Order the subject matter of the Order. For instance, "Order to Compel Discovery," etc. (See Sample) Also, remember to address in the caption the specific subject and the specific person the Order addresses.

122.02 Preparation and Submission

Unless the COURT directs otherwise, attorneys for prevailing

⁷Rule 122.01 & Rule 122.03 Revised 6/5/95

parties will prepare orders for entry by the COURT. All orders of the COURT must be filed with the CLERK and served on opposing counsel within 10 days following the day on which the ruling is made by the COURT.

⁸122.03 Disagreements Over Contents of Orders and Judgments

Orders containing only the signature of the attorney preparing the order and certification that the attorney has sent a copy of the order to opposing counsel will not be entered immediately but will be held by the CLERK for 10 days. The CLERK will time stamp the receipt of the order. The 10 day period will not begin to run under this rule unless a certificate of service on the proposed order is present showing the order has been served on opposing counsel or party when appearing pro se. When opposing counsel has objections to the order, he shall notify the CLERK immediately. If no objections have been made within the 10 day period, the order will be submitted for the signature of the JUDGE. Where there is a disagreement as to the contents of the order, the attorney will set a hearing to resolve the controversy and provide a record of the JUDGE'S ruling when available and present a proposed order at the hearing. Sanctions may be imposed in proper cases. Orders filed pursuant to this rule shall state in the caption that the Order is disputed.

122.04 Court Cost

- (a) All Final Judgments shall provide for taxing of Court Cost. The CLERK may refuse to enter any Agreed Final Judgment, Compromise and Settlement Order until there are provisions for Court Cost to be paid. The name and address of the person to whom court costs is assessed shall appear on the Final Judgment.
- (b) Whenever it appears to the CLERK that a judgment has

⁸Rule 122.03 Revised 6/9/95

been satisfied but that the Court Cost have not been paid, the CLERK may apply to the COURT for re-taxing of Court Cost. The CLERK shall notify the parties of the application and the date and time it will be considered by the COURT.

(c) (deleted in its entirety)

122.05 "Need Order Date"

There shall be announced each docket sounding a "Need Order Date" which shall be a date that final orders must be filed in the CLERK'S office or the case will be dismissed with the court cost taxed to the plaintiff.

RULE 123 - SUGGESTIONS FOR ADDITUR OR SUGGESTION FOR REMITTITUR - TIME FRAME

The suggestion for Additur under the provisions of T.C.A. 20-10-101 in lieu of a new trial or suggestion of a Remittitur shall be exercised within 30 days from the hearing, or ruling, in which the Court granted the relief. Failure of the party to exercise one of the alternatives will be considered as an acceptance of the Remittitur or Additur.

RULE 124 - NON-MINUTE ENTRY ORDERS

Orders not affecting the legal course of an action, such as orders setting the case for trial, or acting on a request for a continuance, may be designated by the CLERK as non-minute entry orders. Such designated orders shall be placed in the file of the case but not spread on the minutes of the COURT.

RULE 125 - PAYMENT AND SATISFACTION OF JUDGMENTS

125.01 - Funds Held by the CLERK

- (a) Funds paid to the CLERK by check will not be disbursed until 10 working days after the CLERK receives the check.
- (b) Orders for disbursing funds, other than agreed orders, must be final before the CLERK will disburse the funds.
- (c) Those funds to be held in trust will be disbursed only upon proper orders of the COURT and with identification sufficiently made known to the CLERK of the party receiving the funds of the trust account.
- (d) Tax information required and social security number shall be made available to the CLERK on orders disbursing funds.

RULE 126 - JUDGES' SIGNATURE - JURORS NAMES

126.01 - Judges' Name on Orders

All Judgments and Orders will have the JUDGE'S name **BOLDLY** typed below the signature line.

126.02 - Jurors Names Contained in Orders

The attorney preparing orders reflecting the verdict in jury trials shall be responsible for placing the names of the jurors on the face of the judgment. Any judgment that fails to contain the names will be entered without the names recited in the judgment and placed in the minutes of the Court.

RULE 127 - SUBPOENAS

127.01 Subpoenas Issued by Clerk

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

127.02 Time for Issuing Subpoenas

Unless names of witnesses are exchanged incidental to discovery process or pursuant to these rules, subpoenas for all witnesses must be issued no later than 10 days before the date of trial.

127.03 Responsibility of Counsel

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

RULE 128 - COURT REPORTERS IN CIVIL CASES

It is the responsibility of litigants and/or counsel to arrange for court reporters in civil cases.

RULE 129 - WORKERS COMPENSATION

129.01 Workers Compensation Benefit Review Conference

In all Workers Compensation cases involving injuries received on or after August 1, 1992, the case may be referred for mediation by meeting in a benefit review conference. See T.C.A. 50-6-237 and 239(a).

**129.02 Approval of Workers Compensation Settlements -
Schedule**

All joint petitions for the approval of Workers Compensation, Legitimation and Minor's Claims must be filed with

the CLERK and scheduled with the JUDGE'S SECRETARY for a specific time for approval, before being presented to the JUDGE. In the event a minor or incompetent person is not represented by counsel, the COURT may require that a Guardian Ad Litem be appointed for the person if the COURT is not satisfied with the proposed settlement, and in the event, the fee of said Guardian Ad Litem will be taxed as part of the costs.

RULE 130 - DORMANT CASES: DOCKET CALLS

130.01 Dismissal of Dormant Cases

To expedite cases, the COURT may take reasonable measures to purge the docket of old cases. A "Show Cause Hearing" will be held before dismissal. Those cases that have been previously set for a jury trial and are not tried for two years with separate settings at docket sounding will be subject to dismissal for want of prosecution.

130.02 Dismissal for Want of Prosecution

After a Show Cause Hearing, copies of the order dismissing a case for want of prosecution "with prejudice" shall be mailed to all counsel of record or to any party in default without counsel of record. The cost will be TAXED against a plaintiff and/or cross-plaintiff.

RULE 131 - DOCKET CALLS

The COURT may hold docket calls to ascertain the status of cases and set deadlines for their disposition.

RULE 132 - AGREED ALTERNATE DISPUTE RESOLUTION

(RESERVED)

PART II: CHANCERY/PROBATE

RULE 201 - PROBATE CASES

201.01 Reports, Audits and Exceptions

Reports submitted to the Clerk and Master for audit are automatically referred to the Clerk and Master for review. Where no exceptions are taken to the Clerk and Master's report within ten (10) days after filing, the report will stand approved and be entered in the minutes.

201.02 Fees

If approval in writing of all interested parties is not obtained, all requests for fees shall be approved by the Court by Order upon written applications, supporting affidavits and notice. All applications for fees shall be supported by affidavits which set forth the amount of time expended, the nature of the effort undertaken, and such other pertinent information as may be called for. Applications shall include a certificate of service on all interested parties.

201.03 Funds Paid Into Court

No litigant funds shall be paid into Court without the Court's Order. Funds paid into Court are not invested for the benefit of the litigants unless the Court so directs. Upon Court order, the Clerk and Master shall invest the litigants' funds into a qualified financial institution as directed by the Order of the Court considering the circumstances involved. In the event the funds are to be

invested at a particular institution, or to be invested in a particular type of account, the Order shall specify. The taxpayer identification number or social security number of all potential recipients of the funds shall be included in the Court's order. It is the duty of the attorney or litigant seeking investment of the funds to specifically call to the attention of the Clerk and Master that the funds are to be invested.

⁹201.04 (deleted in its entirety)

201.05 Pleadings and Orders

Pleadings must be prepared and submitted for consideration by attorneys or by the personal representative. No forms, instructions or directions can be provided by non-attorney members of the Clerk and Master's office.

201.06 Clerk and Master Act

Unless otherwise Ordered by the Court the Clerk and Master is empowered to hear without specific Order of Reference and following matters:

- (1) applications for letters testamentary and letters of administration;
- (2) adjudicate claims and exceptions thereto;
- (3) determine allowance to surviving spouse and family of deceased;
- (4) preside over assignment of homestead;
- (5) preside over proceedings for elective share; and
- (6) take all accounts and settlements.

The clerk shall make a written report of his findings and actions.

⁹Amendments effective 4/1/99

201.07 Review

All actions of the Clerk and Master shall be subject to review by the Court upon exceptions thereto filed with ten (10) days together with a motion for review. If no exceptions are filed within the time period provided, counsel shall lodge an Order of Confirmation.

RULE 202 - JURY TRIALS IN CHANCERY

202.01 Jury Trials Demanded

In any case in which a jury is demanded, the words "JURY DEMAND" shall be typewritten in capital letters in the caption of the case in the same manner as required in Rule 115.01 and Rule 115.02.

202.02 Issues for the Jury

Not less than twenty (20) days before trial, the party demanding a jury shall submit in Jury Verdict Form, the issues to be submitted to the jury. Any other party may file objections to the proposed issues or additional or different issues for the jury not less than fifteen (15) days before trial.

202.03 Jury Instructions

The party first demanding a Jury shall submit, not less than ten (10) days before trial a proposed jury charge on the issues to be determined by the jury, and the other parties shall, not less than five (5) days before trial submit any proposed changes, additions or deletions to the said proposed jury charge.

RULE 203 - DOMESTIC RELATIONS CASES

203.01 Financial Statements - Pretrial

In all domestic relations cases where support is an issue,

both parties shall file and serve on adversary or adversary counsel at least ten (10) days before trial, on a form provided by the Clerk and Master, sworn income and expense statements.

In all divorce cases, both parties shall prepare and file with the Court at a scheduled pretrial conference at least ten (10) days before trial financial statements setting out a list of all assets, the date acquired, purchase price, any encumbrance, and the present value of any asset together with a list of all liabilities, date incurred, amount owed, and the amount of monthly payments owed thereon. The list of assets shall be inclusive of the assets and liabilities of the parties jointly and severally, and specify whether acquired before or during the marriage, and shall be verified under oath. The list of assets shall identify articles over which there exists no dispute as to division and further set forth the proposed equitable division of the marital assets of the parties.

In all contested divorce cases a pretrial conference shall be scheduled before the Clerk and Master on the 10th day preceding the trial. At such conference the filings required by this rule shall be delivered to the Clerk and Master. Upon receipt by the Clerk of both parties' financial statements, the Clerk shall distribute copies to opposing counsel. A scheduling Order shall be entered at the time the case is set on the docket establishing the date and time of the pretrial conference.

The Pretrial Conference required under this rule may be waived if all counsel of record enter an Agreed Order certifying compliance with all Local Rules and stating the case is ready for trial on its designated trial date.

203.02 Temporary Custody Proceedings

In all proceedings in which temporary custody is an issue, evidence introduced during such hearing shall not be duplicated

or repeated at the final hearing, and all testimony and exhibits introduced shall be considered part of the record in the case and be considered by the COURT at the final hearing on the issue of custody.

203.03 Mediation

Mediation is recognized and encouraged as a useful and beneficial process. This is especially true in cases involving custody of children. Voluntary participation by the agreement of the parties will be allowed to proceed, and the COURT will stay all proceedings until mediation has been concluded. If the parties elect to participate in mediation they shall file with the COURT a motion to stay proceedings together with a proposed order granting the stay. In the event that mediation does not resolve all issues, either party may by motion seek further hearing and resolution, and the case shall be set for hearing in the manner provided by these rules for setting cases for trial.

¹⁰203.04 Announced Settlements in Domestic Cases

In all domestic cases scheduled for trial where settlements are announced prior to the date scheduled for hearing, the parties shall appear on the date of trial to announce the terms of settlement in open court. In lieu of appearance of both parties, counsel for at least one party shall, on or before trial, appear with a written decree for submission approved by all parties together with one party for the purpose of presenting to the court the agreement for approval.

¹¹203.05 Duration of Temporary Restraining Order in Domestic Cases

¹⁰Rule 203.04 Revised 2/10/00

¹¹Rule 203.05 Revised 2/10/00

(a) Upon application at the commencement of an action, and for good cause shown, a temporary restraining order may be issued without notice pursuant to Rule 65.07 of Tennessee Rules of Civil Procedure. The temporary restraining order shall contain a notice that the opposing party shall have the opportunity to appear on a date certain to be set within one (1) week from the date of issuance of the temporary restraining order to be heard with respect to any objections they may have to the terms of the temporary restraining order. If there are no objections, the temporary restraining order will continue until further order of the court.

(b) No temporary restraining order shall be sought without notice and hearing where counsel for the opposing side has made an appearance. A request for the issuance of a temporary restraining order shall be in the nature of a show cause hearing and will be scheduled by the court at the earliest available time. Failure to appear and contest will result in the entry of the requested temporary restraining order.

SAMPLE

IN THE SEVENTH JUDICIAL DISTRICT FOR THE STATE OF TENNESSEE
CIRCUIT DIVISION
(CHANCERY)
(PROBATE)

PLAINTIFF #1
(ADDRESS)
PLAINTIFF #2 etc.
(ADDRESS)

versus

Docket # _____

DEFENDANT #1
(ADDRESS)
DEFENDANT #2 etc.
(ADDRESS)

JURY DEMANDED 12
FILED PURSUANT TO
RULE #122.03

- (1) COMPLAINT OF (party)
(name type of action)
- (2) CROSS COMPLAINT OF (party) AGAINST (party)
- (3) ANSWER OF (party)
- (4) MOTION OF (party) FOR SUMMARY JUDGMENT
- (5) MOTION OF (party) FOR DISMISSAL
- (6) ORDER OF CONTINUANCE FROM (date) TO (date)
- (7) ORDER OF NON-SUIT OF (party)
- (8) ORDER OF DISMISSAL OF (party)
- (9) ORDER TO COMPEL DISCOVERY OF (party) BY (party)
- (10) ORDER DENYING SUMMARY JUDGMENT AGAINST (party)

SIGNATURE LINE

ATTORNEY OF RECORD
PARTY
ATTORNEYS ADDRESS AND BPR#

PARTY TAXED WITH COST
(INCLUDING ADDRESS)

SIGNATURE LINE FOR JUDGE
(NAME OF JUDGE)

(see comment next page)

(Comment: This sample is not designed to dictate to the attorneys the finite details of the practice of law. The sample is a strong recommendation for future pleadings so that Judges, Clerks, Lawyers and Secretaries can easily access documents in voluminous files. Rule #10 of the Tennessee Rules of Civil Procedure provides for the "Form of Pleadings" and hopefully this sample will compliment the spirit of Rule #10.

¹²**PART III - CRIMINAL**

RULE 300 - DISCOVERY IN CRIMINAL CASES

300.01 Discovery by the Defendant

All relevant deadlines relating to discovery by the defendant shall be addressed in the pre-trial scheduling order provided to the parties at the time of arraignment.

300.02 Discovery by the State

All relevant issues relating to discovery by the State shall be addressed in the pre-trial scheduling order provided to the parties at the time of arraignment.

300.03 Notice of Intent to Use Audio/Visual Recording is Required

When a party intends to offer an audio and/or visual recording as evidence in a jury trial, counsel must provide written notice to all adverse counsel at least thirty (30) days before a trial. Adverse counsel shall be permitted to review the recording in the form to be offered at trial and shall be allowed to copy the recording at his or her expense. Adverse counsel shall promptly advise the other attorney of each objection to the recording. The lawyers shall then attempt in good faith to resolve objections. If no resolution is reached, a motion in limine shall be filed and set sufficiently before trial so that the objections may be ruled on in time to allow any necessary editing. This does not void requirements of Tennessee Rules of Criminal Procedure 12(d).

RULE 301 - SUBPOENAS

301.01 Subpoenas Issued by Clerk

In criminal cases the issuance of subpoenas for witnesses shall comply with Criminal Court clerk policies.

¹²Criminal Rules added 6/21/06

301.02 Time for Issuing Subpoenas

Subpoenas for a local witness must be issued and dated by the clerk no later than ten (10) days before the date of trial unless prior approval has been granted by the Judge for an extension. If the witness is to be served out of the county, the subpoena must be issued by the clerk no later than twelve (12) days before the date on which the case is set for trial and promptly mailed or otherwise transmitted to the out of the county Sheriff or other authorized person to effect service of the subpoena. The foregoing notwithstanding, the clerk shall not refuse to issue a subpoena even if requested after the dates set forth above.

301.03 Address of Witness

Counsel of record shall be responsible for providing street address and phone numbers, if known, on the requested subpoena(s).

301.04 Prison Inmates Housed by the Department of Corrections

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's office shall prepare, and have it signed by the Judge, an Order of Transport, which shall include the inmate's Department of Correction number, at least ten (10) working days prior to the trial or hearing date. A certified copy of this Order to Transport shall be promptly forwarded to the Sheriff's Department.
- b. Counsel needing prison inmates as witnesses in a criminal case must obtain a court order for the witnesses' appearance and this must be obtained 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 (see Local Rule 304.02) unless the case is for actual settlement and/or there is a need to personally talk to the inmate.

301.05 Prison Inmates Housed in Local Jails

The following rules apply to the appearance of prisoners being housed in our local jail or jails in surrounding counties.

- a. If the prisoner is housed in our local jail, the jail will receive a faxed copy of the docket the day before the defendant is scheduled to appear so they can transport those prisoners in time for their scheduled Court appearance.
- b. If the prisoner is housed in a jail in a surrounding county the District Attorney General's office shall prepare, and have it signed by the Judge, an Order of Transport no later than five (5) working days before the scheduled trial date or Court appearance. A certified copy of this Order of Transport shall be promptly forwarded to the Sheriff's Department.

RULE 302 - MOTIONS IN CRIMINAL CASES

302.01 Time for Filing Pre-Trial Motions

All pre-trial motions shall be made pursuant to Tennessee Rules of Criminal Procedure as well as the pretrial scheduling order.

302.02 Failure to Appear at a Motion Hearing

If counsel for a movant does not appear at a scheduled hearing on a motion or any other matter scheduled to be heard on

the motion docket, the Court may strike, deny, or otherwise dispose of the motion.

302.03 Motions in Limine

- a. Motions in limine relating to an audio and/or visual recording shall be governed by Local Rule 300.03.
- b. Motions in limine seeking to resolve a trial evidentiary matter shall be set at the discretion of the Court.
- c. Counsel are encouraged to raise appropriate evidentiary objections by written motion at least thirty (30) days before trial and the motion shall be heard at least fifteen (15) days prior to the date of the trial.

302.04 Statement of Facts and Legal Authority

Every motion and response which may require the resolution of an issue of law or evidence shall be accompanied by a brief statement of facts and legal authority in support of the position of the motion or response.

**RULE 303 - SETTING CASES FOR TRIAL AND CONTINUANCES:
CRIMINAL CASES**

303.01 Method of Setting

Cases shall be set for trial by the Court on the final Plea/Set date.

303.02 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 a continuance unless the witness has been subpoenaed in accordance with the requirements of these rules and Rule 17, Tennessee Rules of Criminal Procedure.
- c. If a case is continued, a new trial date will be assigned at the time of the continuance.

303.03 Jury Instructions and Verdict Forms

- a. Counsel shall submit to the Court five (5) days before trial those proposed jury instructions that the parties can agree upon. Those jury instructions upon which counsel agree upon shall be submitted jointly. Those proposed jury instructions upon which counsel cannot agree shall be submitted separately also five (5) days before trial.
- b. Counsel shall submit to the Court five (5) days before trial a proposed jury verdict form. All issues in the jury verdict form that counsel can agree to shall be filed jointly. Any portion in the jury verdict form that the parties cannot agree upon shall be filed separately five (5) days before trial.

RULE 304 - NEGOTIATIONS AND SETTLEMENTS IN CRIMINAL CASES

304.01 Pre-Trial Order

At arraignment the Court shall notify the parties of the deadline of filing pre-trial motions, the date(s) for the hearing on pre-trial motions and the plea/set date(s). The above date(s) will be provided to the parties in the form of an Arraignment Order, copies of which shall be furnished to the parties. The clerk will retain the original order in its file but need not

copy it on the minutes.

304.02 Plea/Set Deadline

At arraignment the Court will assign a court date for announcement of whether the case will be a plea or will be set for jury trial of the case. Said date shall be contained in the Arraignment Order which will be the deadline for acceptance of a negotiated disposition. At the final plea/set date, if the case has not been disposed of 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 before the date(s) of the trial. On the day of the trial, the case may be resolved only by trial, the State's motion for dismissal with prejudice, or the defendant's plea of guilty to the offense(s) charged in the indictment. 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.

304.03 Notice to Victims

In recognition of Tennessee Code Annotated §40-38-101, in cases involving plea agreements pursuant to Tennessee Rules of Criminal Procedure 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. This rule shall apply to pleas in cases where the defendant is indicted for the following offenses:

- a. murder or the attempt, facilitation or solicitation to commit murder;
- b. voluntary manslaughter, reckless homicide, criminally

- negligent homicide or the attempt, facilitation or solicitation to commit these crimes;
- c. vehicular homicide;
 - d. aggravated assault;
 - e. aggravated kidnaping, kidnaping or the attempt, facilitation of solicitation to commit these crimes;
 - f. all felonies described as Sexual Offenses under Tennessee Code Annotated §39-13-501, et seq. or the attempt, facilitation or solicitation to commit these crimes;
 - g. aggravated arson and arson or the attempt, facilitation or solicitation to commit these crimes;
 - h. robbery, aggravated robbery and theft of property from the person;
 - i. especially aggravated burglary or aggravated burglary or the attempt, facilitation or solicitation to commit these crimes;
 - j. all felonies described as Offenses Against the Family under Tennessee Code Annotated §39-15-101, et seq., or the attempt, facilitation or solicitation to commit these crimes;
 - k. vandalism;
 - l. stalking; and
 - m. all other crimes involving individual victims where the Judge deems it appropriate that prior communication is made to the victim.

RULE 305 - ORDERS AND JUDGMENTS IN CRIMINAL CASES

305.01 Preparation and Submission of Orders and Judgments by Counsel

Unless otherwise directed by the Court the District Attorney General will prepare orders and judgments for entry by the Court.

Unless otherwise directed by the Court, all orders must be filed with the clerk and served on opposing counsel within seven days following the day on which the ruling is made by the Court.

305.02 Disagreements over Contents of Orders or Judgments

Unless otherwise directed by the Court, an order containing only the signature of the attorney who prepared the order will not be entered immediately, but will be held by the clerk for five (5) days. After opposing counsel receives a copy of the proposed order, he or she shall immediately notify the Court's assistant if there is any objection to the order and file an opposing order. In that event, a conference shall be scheduled at a time convenient to the parties and the Judge.