**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.

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**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.

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**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**

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**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.

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**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:

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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.

A lawyer should promptly respond to attempts by

other lawyers to contact them, whether by telephone or correspondence.

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.

A lawyer should avoid making besmirching accusations of unethical conduct toward an opponent.

A lawyer should not engage in intentionally

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discourteous behavior for the purpose of obtaining

an advantage.

A lawyer should never intentionally embarrass

another attorney and should avoid personal criticism

of opponent in the presence of a client or other counsel.

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.

A lawyer should strive to maintain a courteous tone

in correspondence, pleadings, and other written communications.

A lawyer should never intentionally mislead or

deceive an adversary and should honor promises or commitments made.

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

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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

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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.

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**106.04 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

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Rule 106.04 Revised 6/21/06

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posted outside the courtroom of each COURT. **It is suggested that**

**all attorneys consult TCA 20-9-101 thru TCA 320-9-510 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.

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**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

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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

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"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.

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**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

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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

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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

23

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.

**3**

**117.02 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

3

Rule 117.02 Revised 6/5/95

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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.

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**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 Wavier 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

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(b)

(c) (d)

cases, or the CLERK and MASTER'S office and/or

SECRETARY in CHANCERY and PROBATE cases. By motion.

By docket sounding in Circuit cases; and 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.

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(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)

(e)

In cases continued, the COURT may award expenses and attorney's fees, including compensation to witnesses for lost income and/or travel expenses.

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

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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)

(b)

In the absence of COURT approval and Rule 118.04(e)

the lower case number has priority.

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.

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(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

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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)

(b)

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.

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**

**4**

**119.01 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

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Rule 119.01(a) Amended 6/21/06

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(b)

counsel was promptly furnished the name, address and

telephone number of the witness to be called.

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.)

**5**

**119.04 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

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Rule 119.04 added 6/21/06

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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.)

**6**

**119.05 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)

(2)

(3)

(4)

(5)

The "ten (10) day rule" as it pertains to witnesses as set out in Local Rule 119.01(a).

The "ten (10) day" rule as it pertains to exhibits and as set out in Local Rule 119.01(b).

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.

The "thirty (30) day" rule for discovery as set out in Rule 119.03.

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

6

Rule 119.05 added 6/21/06

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(6)

(7)

(8)

202.03.

For jury trials in Chancery Court also file, pursuant

to Local Rule 202.02 the "issues for the jury."

For jury trials in Chancery Court also file, pursuant to Local Rule 202.03 the jury instructions.

The parties and their counsel shall meet the morning of

the trial well in advance of the scheduled trial time,

(9)

to pre-mark all exhibits prior to trial.

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

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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**

**7**

**122.01 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

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Rule 122.01 & Rule 122.03 Revised 6/5/95

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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.

**8**

**122.03 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

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Rule 122.03 Revised 6/9/95

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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.

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**RULE 125 - PAYMENT AND SATISFACTION OF JUDGMENTS**

**125.01 - Funds Held by the CLERK**

(a)

(b)

(c)

(d)

Funds paid to the CLERK by check will not be disbursed

until 10 working days after the CLERK receives the check.

Orders for disbursing funds, other than agreed orders,

must be final before the CLERK will disburse the funds.

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.

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**

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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

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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)**

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**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

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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.

**9**

**201.04 (deleted in its entirety)**

**201.05 Pleadings and Orders**

Pleadings must be prepared and submitted for consideration

by attorneys of 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)

(2)

(3)

(4)

(5) (6)

applications for letters testamentary and letters of

administration;

adjudicate claims and exceptions thereto;

determine allowance to surviving spouse and family of

deceased;

preside over assignment of homestead;

preside over proceedings for elective share; and take all accounts and settlements.

The clerk shall make a written report of his findings and

actions.

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Amendments effective 4/1/99

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**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,

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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

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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.

**10**

**203.04 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.

**11**

**203.05 Duration of Temporary Restraining Order in Domestic**

**Cases**

10

11

Rule 203.04 Revised 2/10/00

Rule 203.05 Revised 2/10/00

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(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.

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**SAMPLE**

**IN THE SEVENTH JUDICIAL DISTRICT FOR THE STATE OF TENNESSEE**

**CIRCUIT DIVISION**

**(CHANCERY)**

**(PROBATE)**

**PLAINTIFF #1**

**(ADDRESS)**

**PLAINTIFF #2 etc.**

**(ADDRESS)**

**versus**

**DEFENDANT #1**

**(ADDRESS)**

**DEFENDANT #2 etc.**

**(ADDRESS)**

**(1)**

**Docket #\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**JURY DEMANDED 12**

**FILED PURSUANT TO**

**RULE #122.03**

**COMPLAINT OF (party) (name type of action)**

**(2) (3) (4) (5) (6) (7) (8) (9)**

**(10)**

**CROSS COMPLAINT OF (party) AGAINST (party)**

**ANSWER OF (party)**

**MOTION OF (party) FOR SUMMARY JUDGMENT**

**MOTION OF (party) FOR DISMISSAL**

**ORDER OF CONTINUANCE FROM (date) TO (date)**

**ORDER OF NON-SUIT OF (party)**

**ORDER OF DISMISSAL OF (party)**

**ORDER TO COMPEL DISCOVERY OF (party) BY (party)**

**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)**

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(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.

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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.

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Criminal Rules added 6/21/06

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**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 our 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 Generals 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

b.

of this Order to Transport shall be promptly forwarded to the Sheriff's Department.

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.

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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.

b.

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.

If the prisoner is housed in a jail in a surrounding

county the District Attorney Generals 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

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the motion docket, the Court may strike, deny, or otherwise

dispose of the motion.

**302.03 Motions in Limine**

a.

b.

c.

Motions in limine relating to an audio and/or visual

recording shall be governed by Local Rule 300.03.

Motions in limine seeking to resolve a trial

evidentiary matter shall be set at the discretion of the Court.

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.

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b.

c.

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.

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

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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

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c.

d. e.

f.

g.

h.

i.

j.

k.

l. m.

negligent homicide or the attempt, facilitation or

solicitation to commit these crimes;

vehicular homicide; aggravated assault;

aggravated kidnaping, kidnaping or the attempt,

facilitation of solicitation to commit these crimes;

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;

aggravated arson and arson or the attempt, facilitation

or solicitation to commit these crimes;

robbery, aggravated robbery and theft of property from

the person;

especially aggravated burglary or aggravated burglary

or the attempt, facilitation or solicitation to commit

these crimes;

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;

vandalism;

stalking; and

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.

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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.

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