

**R U L E S**  
**OF LOCAL PRACTICE IN**  
**THE CIRCUIT AND CHANCERY**  
**COURTS FOR SULLIVAN COUNTY,**  
**TENNESSEE**

Effective July 2, 2007

**CLERKS OF THE COURTS**

**BRISTOL:**

Law Court  
Justice Center  
801 Anderson Street  
Bristol, Tennessee 37620  
(423) 652-1030

Chancery Court  
Justice Center  
801 Anderson Street  
Bristol, Tennessee 37620  
(423) 989-4361

**BLOUNTVILLE:**

Law Court  
Sullivan County Justice Ctr.  
P.O. Box 585  
Blountville, Tennessee 37617  
(423) 279-2752

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

**KINGSPORT:**

Law Court  
225 W. Center Street  
Kingsport, Tennessee 37660  
(423) 224-1724

Chancery Court  
225 W. Center Street  
Kingsport, Tennessee 37660  
(423) 224-1726

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# **RULE 1**

## **SCOPE OF RULES**

The following rules of local practice shall govern the rules of procedure in all of the Circuit, Law and Chancery Courts of Sullivan County in civil actions and shall become effective July 2, 2007, expressly repealing all local rules adopted previously.

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

All Court personnel are forbidden from interpreting any rules of procedure or giving any legal advice. Notice is hereby given to all persons that Court personnel assume no responsibility for any misinformation regarding substantive law, procedural rules, local rules or local customs.

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

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

/s/ R. Jerry Beck, Circuit Court Judge  
200 Shelby Street  
Kingsport, TN 37660

/s/ Robert H. Montgomery, Criminal Court Judge  
P. O. Box 585  
Blountville, TN 37617

## **RULE 2**

### **ASSIGNMENT OF CASES**

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

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

- (a) To the Judge of the Circuit Court, Part I, two of every five cases filed in the Law and Chancery Courts at Kingsport and Bristol and all civil cases filed in Circuit Court at Blountville.
- (b) To the Judge of the Circuit Court, Part II, one of every five cases filed in the Law and Chancery Courts at Kingsport and Bristol, but not to include any jury cases.
- (c) To the Chancellor of the Chancery Court, two of every five cases filed in the Law and Chancery Courts at Kingsport and Bristol and all cases filed in the Chancery Court at Blountville.

Cases assigned to a judge or chancellor shall be heard by that judge or chancellor unless the assigned judge or chancellor recuses himself. An exception to this rule shall exist when the assigned judge or chancellor's case is uncontested or where it is necessary to expedite the entry of final judgments in workers' compensation settlements, minor's settlements, and issuance of restraining orders in domestic relations cases, all of which may be heard by interchange. If a subsequent contested proceeding arises in a case previously heard by interchange, then the judge or chancellor to whom the case was originally assigned will hear the contested issues.

## **RULE 3**

### **MOTION DAYS**

Motion days are set aside for the purpose of expediting the trial of the non-jury docket and the following matters may be set on motion days by counsel: uncontested divorces; motions for temporary support; contempt actions; motions to enforce and/or modify visitation rights; motions to enforce Marital Dissolution Agreements; Parenting Plans; Motions for Summary Judgments; Motions to Dismiss, etc.

Contested custody cases and contested divorce actions shall not be heard by the Court on motion days and counsel shall not cite persons to appear in such proceedings on motion days. Application must be made to the Court for the trial of these cases on special days.

Motion days for Circuit Court, Part I, shall be held at Kingsport on the first and third Fridays of each month and Bristol on the second and fourth Fridays. Motion days for the Chancellor shall be held at Kingsport on the second and fourth Fridays of each month and at Bristol on the first and third Fridays. Motion days for Circuit Court, Part 2, shall be held at Kingsport on the first Friday of each month and at Bristol on the third Friday of each month. Motion days may be scheduled for other days when required. Attorneys should confirm Motion Days with the clerks of the courts.

Cases pending in the Chancery Court at Blountville or Circuit Court at Blountville may be heard any motion day either at Bristol or Kingsport by the Judge to whom the case is assigned.

All matters which involve more than thirty minutes of Court time shall not be set on motion days.

# **RULE 4**

## **MOTIONS**

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

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

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

## RULE 5

### TEMPORARY RESTRAINING ORDERS

Applications for ex parte restraining orders must be presented to the Judge of the Court in which the action is pending. If that judge is disqualified, disabled or absent from the county, the application may be presented to a Judge of a Court having comparable jurisdiction. [TRCP 65.04(3)]. In domestic relations cases, application for an ex parte restraining order may be presented to any of the judges who will sit by interchange in order to expedite the issuance of such orders.

Injunctive or restraining order relief constitutes a limitation upon the freedom of action of an individual and such relief will not be granted lightly or unadvisedly. Such relief in an ex parte application will only be granted where it is **clearly** shown there is necessity for quick action, and the party applying for such relief must sustain the burden of showing its necessity, and this burden is increased in the absence of the party whose freedom of action is sought to be restrained even though temporary.

Restraining orders shall **not** be worded in such a manner as to direct a change of custody.

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

**NOTE:** “No such extraordinary process shall be granted, unless the party applying therefor state in the party’s bill or petition that it is the first application for such process.” T.C.A. § 29-1-107.

# **RULE 6**

## **SUBPOENA OF WITNESSES**

A witness who is directed by subpoena to appear at a hearing or trial and give testimony is entitled to reasonable notice in advance of the hearing or the trial. Officers waiting upon the Court are entitled to reasonable notice in advance of the trial to serve such process.

Unless there is a statute or rule of law directing otherwise, subpoenas for a witness must be issued and delivered to the person authorized to serve the subpoena at least three (3) full business days prior to the date of the hearing or trial at which the witness is ordered to appear. Failure to serve a witness with a subpoena that has not been issued and delivered within at least three (3) full business days prior to the date of the hearing or trial at which the witness is ordered to appear shall not be a ground for a continuance of the hearing or trial.

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

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

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

### **SUBPOENAS FOR MEDICAL RECORDS**

All subpoenas issued by the Clerk for medical records shall reflect compliance with the Health Insurance Portability and Accountability Act (H.I.P.A.A.). See 45 C.F.R. §164.512(e). The Clerk shall not issue a subpoena pursuant to T.R.C.P. 45.02 for medical records unless the subpoena form includes the following:

**HIPAA NOTICE**

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

- (A) serve the recipient of the subpoena by facsimile with a written objection to the subpoena, with a copy of the notice by facsimile to the party that served the subpoena, and
- (B) simultaneously file and serve a motion for a protective order consistent with the requirements of T.R.C.P. 26.03 and 26.07.

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

# **RULE 7**

## **EXPERT WITNESSES**

No expert witnesses shall be permitted to testify in person at a hearing or trial or by deposition unless the party offering the expert witness has provided other parties and/or their counsel with an up to date written report of the expert witness at least five (5) business days prior to the date of the taking of the deposition or the personal appearance of the witness unless the parties and/or their counsel agree otherwise or the court orders otherwise. The report shall contain at least the minimum information as required by TRCP Rule 26.02 (4)(A). This rule shall have no application where a deposition of an expert witness is taken by any party for the purpose of discovery.

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

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

# RULE 8

## JURY AND NON-JURY TRIALS

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

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

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

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

**COMMUNICATIONS WITH JURORS:** After the jury venire has been released and while the term or session of Court is still in progress, an attorney or any other person shall not communicate with or cause another person to communicate with any juror regarding a trial of any action on the docket. After the term or session of Court is concluded and the jury is discharged, an attorney may talk to any juror if such juror desires to engage in a conversation, but he shall refrain from asking questions or making comments calculated merely to harass or embarrass the juror or to influence his actions in future jury service.

**CONTINUANCES:** The Clerk of the Court will not be permitted to accept announcement of a continuance. All applications for a continuance must be presented to the Court before noon on

Friday before the first day of the jury session and a continuance will not be granted thereafter except under extreme circumstances, and after the filing of a written motion.

**SETTLEMENT:** Counsel shall **promptly** notify the Clerk's Office and Judge's Office of a settlement. Failure to comply with this rule will result in the entry of an order taxing the actual costs of bringing the jury in for a trial against the parties and/or attorneys of record.

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

**CHANCERY JURY CASES:** In the event a party requests a jury in a Chancery Court case, it shall be the responsibility of the attorney for the party requesting the jury to contact the Law Court Clerk and to add the Chancery case to the end of the Law Court Jury docket.

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

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

## **RULE 9**

### **ENTRY OF CIVIL ORDERS AND JUDGMENTS**

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

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

# **RULE 10**

## **NEGOTIATIONS DURING PENDENCY OF SUIT**

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

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

When suit has been instituted and process has been served upon the defendant, the defendant's attorney will only negotiate settlement with the attorney for the plaintiff and in the event plaintiff is not represented by counsel, then the defendant's attorney will only negotiate settlement with the plaintiff personally.

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

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

# **RULE 11**

## **COURT RECORDS: REMOVAL OF FILES FROM COURTHOUSE**

All records in the custody of the office of the clerk, except records rendered confidential by express provisions of law, are public records and shall be open for public inspection pursuant to TCA §10-7-503 during regular business hours.

Files in the custody of the clerk which are deemed to be public records may be checked out by counsel only, upon signing a receipt therefore, for a period not to exceed seven (7) days. If the record is checked out within seven (7) days of the trial or any hearing, it shall be returned 24 hours prior to said trial or hearing. A file retained by counsel subsequent to a trial or hearing must be taken from the courtroom to the clerk's office unless such counsel signs a receipt for it prior to removing it from the courthouse. Any other person must inspect the records in the clerk's office.

**RULE 12**

**SUMMARY JUDGMENTS,  
MOTIONS TO DISMISS  
AND  
FILING OF BRIEFS**

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

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

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

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

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

- (1) A response in accordance with TRCP 56.03 (only the portions of the depositions relevant to the motion shall be submitted);
- (2) Briefs of law;
- (3) If the non-moving party has asserted additional facts, the moving party's reply statement shall be submitted in the manner and form specified in TRCP 56, at least

three (3) working days before the hearing on the motion.

If the parties change the time, date, and/or place of the motion, the moving party shall immediately notify the Judge's office.

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

## **RULE 13**

# **MEDIATION OF CONTRACTOR, HOMEOWNER, COMMERCIAL DEVELOPER DISPUTES**

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

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

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

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

# RULE 14

## CONDUCT, REPRESENTATION, ADMISSION & SIGNING OF PLEADINGS

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

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

**14.03. *Approaching the Bench.*** Attorneys shall not approach the bench without Court approval. Counsel shall not lean on the bench nor appear to engage the Court in conversation in a confidential manner.

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

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

**14.06. *Notice of Appearance.*** Only an attorney who has entered an appearance in a case will be counsel of record. Entry of appearance may be by filing a pleading on behalf of a party, filing a

formal notice of appearance, or written notice filed with the clerk.

**14.07. *Withdrawal of Counsel.*** No attorney shall be allowed to withdraw except for good cause and by leave of Court upon motion after notice to all other counsel and/or *pro se* parties, and to the client of the attorney wishing to withdraw. The motion shall set forth the reason for withdrawing with specificity, the status of the case, and whether withdrawal will result in delay. All motions to withdraw shall state the trial date or that no trial date has been set and shall comply with the applicable provisions of the Code of Professional Responsibility. The order allowing withdrawal shall bear a certificate of service reflecting that a copy of the order allowing withdrawal has been furnished both to the opposing attorney (or to the opposing party, if unrepresented by counsel) and upon the client of the attorney wishing to withdraw. Further, such order shall provide that the affected party has thirty days (or in more complex matters, sixty days) to secure other counsel if the party so chooses, which counsel shall enter an appearance within that time or, failing therein, that it will be presumed that the client is electing to proceed *pro se*. The certificate of service on said order shall contain the full mailing address of the client-party or his place of employment or recite that such address is not known to the attorney.

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

**14.09. *Forbidden Conduct.*** There shall be no use of tobacco products in the courtroom. No books or newspapers shall be read in the courtroom. Cell phones and other electronic devices shall be silenced while in the courtroom. The use of cell phones is prohibited while in the courtroom. No video or audio recording may be made without leave of court.

**14.10. *Courtroom Security.*** In order to ensure and maintain proper security for the protection of government property and safety of the court, court personnel, attorneys and all persons in attendance thereupon, whether as a party, witness, or spectator, no person shall bring firearms, knives or any other weapon or explosive device into the facility in which judicial proceedings are being conducted. The Sheriff is authorized and directed to employ all lawful and constitutional means necessary to ensure the security of the courtrooms and all passages, corridors, rooms, and points of ingress and egress thereto. The Sheriff may, circumstances requiring, in his/her discretion establish and promulgate reasonable regulations not inconsistent with this rule for purposes of

carrying out its directive including, but not limited to, the search of all persons seeking to enter the various courtrooms of the facility where Court is held. Anyone seeking to enter said courtroom, not consenting to a search of their person when requested by one lawfully authorized to conduct said search, will not be admitted. Only courtroom personnel, shall wear/carry sidearms in the courtroom while court is in session. All other persons legally authorized to carry firearms must check their firearms with court personnel while they are in the courtroom, or with the Sheriff.

***14.11. Admission to Practice.***

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

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

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

***14.13. Signing of Pleadings, Motions and Proposed Orders.*** TRCP Rule 11 requires every pleading, written motion, and other papers to be signed by at least one attorney of record in the attorney's individual name, or, if the party is not represented by an attorney, shall be signed by the party. Each paper shall state the signer's address and telephone number, if any, in addition to the attorney's Tennessee Board of Professional Responsibility number.

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

**14.15 Adoptions, Surrenders and Conservatorships.** It is preferred that all Adoption Complaints and Petitions for Conservatorship be filed in the Chancery Court.

All surrender forms must be completed in full prior to presenting to the Court and all signature lines must be tabbed.

When an adoption case is ready to be set for hearing, counsel for adoptive parent shall contact the Judge's office to whom the adoption is assigned to set a hearing date. Children fourteen years of age or over are required to attend adoption proceedings. If the child(ren) are less than fourteen years of age, the adopting petitioners may decide whether or not the child(ren) will attend the hearing.

**14.16 Filing of Discovery.** Depositions, interrogatories, requests for documents, requests for admissions, and answers and responses thereto shall **not** be filed with the Clerk unless it is to be used and considered by the court for any purpose in the proceeding (See T.R.C.P. 5.05). Any such filing shall be at least five (5) business days prior to hearing or trial, and notice of filing shall be given to opposing counsel prior to or immediately upon filing.

**14.17. Certificate of Service.** All papers not approved for entry by the opposing party/counsel must include a certificate of service which shall contain the date of service and the name of the person or persons served, as well as the address of such person or persons. No certificate of service shall be accepted which merely certifies that "copies have been served upon all parties" or fails to clearly designate by name and address the person(s) so served.

**14.18. Contacting the Judge.** No counsel, party or a witness to a pending or impending action shall contact the Judge, except as permitted by Local Rule 20 and/or as provided by law. The litigants and witnesses should be instructed that under no circumstances shall they contact the Judge or the Judge's Court Administrator or paralegal. However, approved orders, judgments, etc., may be forwarded to the Judge for purposes of signature prior to entry. Any ex parte correspondence delivered to the Court, either received by the Judge in chambers or in open court, will be filed in the cause and made a public record. The court may consider the correspondence when a party presents an issue predicated upon the correspondence, pursuant to 792 S.W. 2d 723 (Tenn. Crim. App. 1990). See Tenn. Sup. Ct. R. 10, Canon 2, note 1.

# RULE 15

## APPEAL FROM GENERAL SESSIONS COURT TO CIRCUIT COURT

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

### NOTICE

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

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

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

# RULE 16

## PARENTING PLAN PARENT EDUCATION SEMINAR MEDIATION

**16.01. General Provisions:** This rule is adopted to promulgate procedures to be followed in the Courts of Record in the 2<sup>nd</sup> Judicial District of Tennessee so as to ensure that the intent of the legislation codified as T.C.A. §36-6-401, et seq. is carried out in domestic relations cases involving minor children. If any provision herein is found to be in conflict with the legislation, the legislation will prevail.

**16.02. Duties of Clerks and Attorneys:**

- A. When a complaint for divorce with fault grounds is filed with the clerk's office, a Temporary Restraining Order in compliance with T.C.A. §36-4-106(d) is to be submitted for the Court's approval.
- B. When a complaint for divorce involving minor children is filed with the clerk's office, the following items must be attached to the summons:
  - (1) Exhibit A (State Registry Form);
  - (2) Temporary Parenting Plan and, if necessary, Affidavit of No/Limited Visitation and Notice of Hearing as set forth in item 16.03 below;
  - (3) Information for Defendant;
  - (4) Letter to Defendant from Judges;
  - (5) Acknowledgment of Defendant to Attend Parent Education Seminar;
  - (6) Report of Income of Defendant with attached definition of gross income; and,
  - (7) Documents in compliance with T.C.A. §36-4-106(b).

If the filing party is represented by an attorney, the above items shall be attached to the summons by the filing attorney and shall be filed along with the signed Check List for Attorneys. If the filing party is not represented by an attorney, the clerk shall give the filing

party a package and assure that the signed documents are attached to the Summons.

- C. In addition to the above, the filing party must file the following:
  - (1) Acknowledgment of Plaintiff to Attend Parent Education Seminar;
  - (2) Divorce certificate; and,
  - (3) Report of Income of Plaintiff.
- D. The following forms will be made available by the clerks to attorneys and pro se litigants upon request:
  - (1) Temporary Parenting Plan;
  - (2) Permanent Parenting Plan;
  - (3) Restraining Order; and,
  - (4) Defendant's Packet.

***16.03. Procedure for Determining Temporary Parenting Plan:***

- A. Upon filing the complaint for a divorce involving minor children, the plaintiff shall file:
  - (1) Temporary Parenting Plan (TPP) and Child Support Worksheet (and Credit Worksheet when applicable) pursuant to Tennessee Department of Human Services Rule 1240-2-4. The TPP may be agreed to by both parties, or submitted by Plaintiff.
  - (2) If Plaintiff is asking for Defendant to have no visitation or limited visitation for any of the reasons set forth in T.C.A. § 36-6-406, an Affidavit of No Visitation or Affidavit of Limited Visitation must be filed along with a Notice to the Defendant to appear at the next available motion day of the Judge to whom the case is assigned for a hearing to determine whether any visitation should take place based on restrictions under T.C.A. §36-6-406 and if so, in what form.
- B. If the court finds that the Temporary Parenting Plan submitted by Plaintiff or agreed to by the parties appears to be reasonable, it will be adopted as the temporary Order of the court and will continue in effect until the Defendant requests mediation which results in an agreed modification of the Temporary Parenting Plan, or until further Order of the court.
- C. If the Defendant disagrees with the Temporary Parenting Plan, he or she may request that the parties be scheduled for the earliest preliminary mediation education session, which will be followed by mediation as soon as practical afterwards.
- D. Pursuant to T.C.A. §36-6-403(2), the Temporary Parenting Plan shall be accompanied by a verified statement that the Plan is proposed in good faith and is in the best interest of the child(ren). This verified statement shall specify the name and address of the caregiver for

the child, as well as with whom the child has primarily resided during the six month period immediately preceding the filing of the complaint/petition. If the Temporary Parenting Plan serves to change the parenting schedule existing during the prior six month period, the verified statement shall so state.

**16.04. *Modification of Previous Permanent Parenting Plan:***

When Petitions to modify previous Permanent Parenting Plans are filed, a proposed Permanent Parenting Plan and current Exhibit A shall be attached to the Petition. However, the previous existing Permanent Parenting Plan will continue in effect until completion of the mediation process and court approval of another Permanent Parenting Plan, unless for good cause shown the court orders otherwise.

**16.05. *Parent Education Seminar:***

- A. In actions for absolute divorce, divorce from bed and board, annulment, separate maintenance, custody proceedings regardless of whether the parties are married, and in post-judgment modification proceedings involving minor children, both parents are required to attend a Parent Education Seminar. No divorce shall be delayed due to the failure of a parent or parents to attend the Parent Education Seminar.
- B. The Parent Education Seminar and Mediation Seminar must be scheduled by the plaintiff within 30 days of the filing, and by the Defendant within 30 days of being served with process.

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

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

- C. Education Providers will make all arrangements for time, place and fees for seminars. Seminar schedules for each provider will be provided to the clerk and counsel/pro se litigants may

obtain the information regarding scheduling the classes from the clerk's offices. Education Providers will notify the courts by filing with the appropriate clerk a copy of a certificate of attendance given to parents attending the classes. Certificates shall include the following: Name; docket number with name of court in which case is pending; name of education provider; date class was attended; and shall be signed by a representative from the seminar facilitator.

- D. Each party and his/her attorney is responsible for confirming that his/her certificate of attendance is properly filed in the court file prior to the date of the final hearing.
- E. The fee or costs of the Parent Education Seminar shall be borne by the parties and shall be taxed as the Court deems equitable. Fees may be reduced or waived for indigent persons.

**16.06. *Permanent Parenting Plan:***

- A. If the parties cannot reach agreement on a Permanent Parenting Plan, the parties may choose mediation or arbitration by agreement of the parties, or a judicial settlement conference, which conference shall be scheduled by the Court.
- B. If the parties have not reached agreement on a Permanent Parenting Plan, each party shall file and serve a proposed Permanent Parenting Plan on or before 45 days before the date set for trial. Parties may continue to mediate or negotiate. Failure to comply may result in the court's adoption of a filed plan if the court finds that plan to be in the best interest of the child. Each parent submitting a proposed Permanent Parenting Plan shall attach a verified statement of income, a verified statement that the plan is proposed in good faith and is in the best interest of the child and a Child Support Worksheet (and Credit Worksheet when applicable) pursuant to Tennessee Department of Human Services Rule 1240-2-4 and in accordance with T.C.A. §36-6-404(c)(3).
- C. A Permanent Parenting Plan shall be presented at the time of hearing of the divorce regardless of a Parenting Plan having been previously entered in the case.

**16.07. *Mediation and Mediators:***

- A. At any time during the divorce proceedings, the parties may choose to participate in a method of alternative dispute resolution and select their own mediator or arbitrator. However, if the court is involved, either by the court's own motion or by motion of one or both parties, the court will appoint a family mediator pursuant to Supreme Court Rule 31. If the parties are unable to reach an agreement on a Permanent Parenting Plan within 120 days after the commencement of the action, the parties may submit a scheduling order to the court including

a referral to mediation or alternative dispute resolution or request for a waiver for just cause. The court may designate a Rule 31 family mediator by court order. The mediators' fees may be taxed as court costs or the court may determine the case is appropriate for pro bono mediation.

**B. Mediation Fees and Agreement to Mediate:**

The parents may directly negotiate the fees with the mediator. Each mediator must provide proof of three pro bono mediations to the Administrative Office of the Courts for annual reapproval.

**C. Mediator Reports:**

Mediator reports will be filed with the court pursuant to Supreme Court Rule 31. The reports include a 30-day report and final report.

**D. Judicial Settlement Conferences will not be available in cases affected by this rule, except on motion and a showing of exceptional circumstances.**

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

**16.08. *Mandatory Mediation:*** This rule makes mediation mandatory on all issues involving minor child(ren). However, the court encourages the parties to use mediation or other alternative dispute resolution methods on all contested issues.

**16.09. *Waiver:*** Upon proper motion, or sua sponte, the court may waive any requirements of this rule pursuant to law or for good cause shown.

## **RULE 17**

### **AFFIDAVITS-CONTESTED DIVORCES AND SUPPORT ACTIONS**

In all contested divorce causes, the parties shall file with the clerk, with a copy to the judge's chambers two (2) working days prior to the commencement of the trial Appendices A and B.

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

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

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

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

**APPENDIX A**

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

\_\_\_\_\_  
PLAINTIFF,  
vs.  
\_\_\_\_\_  
DEFENDANT.

CASE NO. \_\_\_\_\_

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

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

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

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

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

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

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

a. Motor vehicles: Number owned \_\_\_\_\_.

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

b. Household Furnishings:

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

c. Bank Accounts:

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

d. Stocks, Bonds & Other Intangibles:

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

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

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

4. Spouse owns the following interests in real property:

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

5. Spouse owns the following interest in personal property:

a. Motor vehicles: Number owned \_\_\_\_\_.

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

b. Household Furnishings:

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

c. Bank Accounts:

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

d. Stocks, Bonds & Other Intangibles:

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

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

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

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

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

b. The spouse owes the following debts:

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

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

<u>ITEM</u>	
Rent/House Payment	\$ _____
Utilities (gas, electricity, water)	\$ _____

Telephone	\$ _____
School Lunches (Child(ren))	\$ _____
School Supplies (Children)	\$ _____
Work Lunches	\$ _____
Automobile Payments	\$ _____
Transportation to & from work	\$ _____
Clothing Replacement (self)	\$ _____
Clothing Replacement (Child(ren))	\$ _____
Laundry & Dry Cleaning	\$ _____
Child Care While Working	\$ _____
Haircuts and Beauty Shop	\$ _____
Insurance	\$ _____
Medical & Dental Expense	\$ _____
Drugs & Medicines	\$ _____
Furniture Payments	\$ _____
Cigarettes	\$ _____
Groceries	\$ _____
Miscellaneous Expenses	\$ _____
<b>TOTAL EXPENSES</b>	<b>\$ _____</b>

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

This the day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Plaintiff/Defendant

STATE OF TENNESSEE:  
COUNTY OF \_\_\_\_\_:

Subscribed and sworn before me on this the day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public

My commission expires:  
\_\_\_\_\_

**CERTIFICATE OF SERVICE**

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

\_\_\_\_\_  
Attorney  
Address/Phone #

\_\_\_\_\_  
BPR #

**APPENDIX B**

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

\_\_\_\_\_  
PLAINTIFF,  
vs.  
\_\_\_\_\_  
DEFENDANT.

CASE NO. \_\_\_\_\_

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

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

1. The contested issues in this case are:

- \_\_\_\_\_ Party to whom the Divorce should be granted
- \_\_\_\_\_ Division of Co-Parenting Time with Children
- \_\_\_\_\_ Payment of Child Support
- \_\_\_\_\_ Division of Property
- \_\_\_\_\_ Payment of Debts
- \_\_\_\_\_ Payment of Alimony
- \_\_\_\_\_ Division of Retirements or Other Assets Requiring Entry of a QDRO
- \_\_\_\_\_ Payment of Attorney's Fees
- \_\_\_\_\_ Payment of Court Costs

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Income and expenses:

This party would show to the Court that the Plaintiff is employed at \_\_\_\_\_

\_\_\_\_\_  
(include address).

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

\_\_\_\_\_.

This party would further show to the Court that the Defendant is employed at \_\_\_\_\_ (include address).

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

\_\_\_\_\_.

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

**ITEM OF EXPENSES:**

Rent/House Payment	\$ _____
Utilities (gas, electricity, water but not cable or telephone)	\$ _____
Cable Television	\$ _____
Telephone	\$ _____
Automobile payments	\$ _____
Clothing (where there are minor children, for parent only)	\$ _____
Child care while working	\$ _____
Insurance (by category: health, house, car)	\$ _____
Medical & Dental expenses (where there are minor children, for parent only)	\$ _____
Furniture payments	\$ _____
Expenses for children not covered above	\$ _____
Miscellaneous Expenses	\$ _____
<b>TOTAL EXPENSES</b>	<b>\$ _____</b>

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

<u>Item of Property</u>	<u>Fair market value asserted by this party</u>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

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

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

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

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

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

\_\_\_\_\_  
[Party completing this form]

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

\_\_\_\_\_  
Attorney

**CERTIFICATE OF SERVICE**

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

\_\_\_\_\_  
Attorney  
Address  
Phone #

BPR #

# RULE 18

## COURT POLICY FOR INCLEMENT WEATHER

The Court policy regarding inclement weather or severe storm damage is:

### JURY TRIALS

There will be no jury trial in **Kingsport** if City of Kingsport schools are closed;

There will be no jury trial in **Bristol** if City of Bristol schools are closed; and,

There will be no jury trial in **Blountville** if City of Kingsport or City of Bristol schools are closed.

If school starting times are delayed, jurors will need to report by 8:45 a.m.

### NON JURY MATTERS

The Judge will attempt to hold Court as scheduled, however, no party/attorney will be penalized for being late or unable to appear in the event of inclement weather. If possible, advise the clerk's office of inability to appear before 9:00 a.m.

# RULE 19

## FEES FOR FIDUCIARIES AND ATTORNEYS

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

### FIDUCIARIES' FEES

1. Upon being appointed or qualified, ALL fiduciaries shall sign a form stating whether or not they intend to charge a fee. **Failure to sign a "Fee Form" shall be considered a waiver of a fiduciary fee.** If a fee is charged, the method of computing the fee must be stated, and time records must be kept. Except as provided in Paragraph 4 below, no fiduciary fee shall be paid without first obtaining an Order signed by the Clerk and Master or Chancellor approving the fee.

2. Except as provided in Paragraph 6 below, the fiduciary shall file with the Court a detailed sworn petition setting forth the activities performed as a fiduciary with the time expended on each activity. The petition should also state the total amount of fee sought and the method used in computing the amount of the fee.

The fiduciary shall serve a copy of the petition for a fee upon all interested parties along with a notice of time and date when the fiduciary will appear and seek approval of the fee before the Clerk and Master or the Chancellor.

The fiduciary may receive reasonable compensation for services rendered. The Clerk and Master or Chancellor shall set the actual compensation to be paid, taking into account: the complexity of the property of the estate; the amount of time the fiduciary spent performing the fiduciary duties; the expertise of the fiduciary; whether the fiduciary had to take time away from the fiduciary's normal occupation; whether the services performed for the estate are those the fiduciary should have normally provided had there been no need for a fiduciary; and, such other matters as the Court deems appropriate.

3. The petition shall state the amount of the fee sought but a detailed statement of activities performed shall not be required and a hearing shall not be necessary when the petition is accompanied by either of the following:

- (a) In the event a written contract was executed between the testator and executor or the settlor and the trustee with specific fee arrangements, a copy of the contract and a sworn statement setting forth compliance with the contract, or
- (b) In the event that compensation is fixed under the terms of the Will, a sworn statement setting forth compliance with the Will, or
- (c) written consent of all legally competent interested parties acknowledging that they have received a copy of the sworn petition; that they were advised of the basis of the fee, the amount of the fee and the option of seeking court review of the fee; and that they approve the fee.

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

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

6. In cases involving fiduciary fees totaling one thousand dollars (\$1,000.00) or less, time records shall not be necessary and a petition setting forth the activities performed as fiduciary shall be sufficient without a hearing.

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

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

#### **ATTORNEYS' FEES**

1. Except as provided in Paragraphs 2 and 4 below, a detailed sworn petition shall be filed by the attorney setting forth the activities performed, supported by time records, and stating the total fee requested and the basis used in computing the amount of the fee.

A copy of the petition for attorney's fees shall be served on all interested parties along with a

notice of time and date that the attorney will appear before the Clerk and Master or Chancellor to seek approval of the attorney's fees.

The Clerk and Master or the Chancellor shall base the fee on the factors as set forth in the Rules of Tennessee Supreme Court, Rule 8, DR 2-106 as follows: "Factors to be considered as guides in determining the reasonableness of a fee include the following:"

- (a) The time and labor required, the novelty and difficulty of the questions involved and the skill requisite to perform the legal service properly.
- (b) The likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer.
- (c) The fee customarily charged in the locality for similar legal services.
- (d) The amount involved and the results obtained.
- (e) The time limitations imposed by the clients or by the circumstances.
- (f) The nature and length of the professional relationship with the client.
- (g) The experience, reputation and ability of the lawyer or lawyers performing the services.
- (h) Whether the fee is fixed or contingent.

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

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

4. In estates involving an attorney's fee totaling one thousand five hundred dollars (\$1,500.00) or less, time records shall not be necessary and a petition setting forth a list of legal activities performed shall be sufficient without a hearing.

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

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

**APPENDIX C**

**IN THE CHANCERY COURT FOR SULLIVAN COUNTY**

**AT BLOUNTVILLE, TENNESSEE**

IN RE:

Civil Action No. \_\_\_\_\_

**FEE STATEMENT OF FIDUCIARY**

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

\_\_\_\_\_ I WILL seek a fee as Fiduciary in this case.

If my fee is based on a contract, a copy of the contract is attached to this form.

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

DATE: \_\_\_\_\_

\_\_\_\_\_  
Signature of Fiduciary

\_\_\_\_\_  
Printed Name of Fiduciary

**APPENDIX C**

**IN THE CHANCERY COURT FOR SULLIVAN COUNTY**  
**AT BLOUNTVILLE, TENNESSEE**

IN RE:

Civil Action No. \_\_\_\_\_

**CONSENT TO FIDUCIARY FEES**

As an interested party in the Estate of \_\_\_\_\_, I  
acknowledge that:

Initials of Party

- |   |  |       |
|---|--|-------|
| (1) I have received a copy of the sworn<br>petition or accounting.  |  | _____ |
| (2) I have been advised of the basis upon which<br>fiduciary fees are to be charged, the amount<br>of the fees requested during the period covered by<br>this accounting or statement in lieu of<br>accounting, and the option of seeking court<br>review of the fee. |  | _____ |
| (3) I hereby approve the fee in the amount of<br>\$_____.   |  | _____ |

\_\_\_\_\_  
Date

\_\_\_\_\_  
Beneficiary Signature

\_\_\_\_\_  
Witness

**APPENDIX C**

**IN THE CHANCERY COURT FOR SULLIVAN COUNTY**  
**AT BLOUNTVILLE, TENNESSEE**

IN RE:

Civil Action No. \_\_\_\_\_

**CONSENT TO ATTORNEY FEES**

As an interested party in the Estate of \_\_\_\_\_, I  
acknowledge that:

Initials of Party

- |     |   |       |
|-----|---|-------|
| (1) | I have received a copy of the accounting or statement in lieu of accounting.  | _____ |
| (2) | I have been advised of the basis upon which attorney fees are to be charged, the amount of the fees requested during the period covered by this accounting or statement in lieu of accounting, and the option of seeking court review of the fee. | _____ |
| (3) | I hereby approve the fee in the amount of \$_____.  | _____ |

\_\_\_\_\_  
Date

\_\_\_\_\_  
Beneficiary Signature

\_\_\_\_\_  
Witness

APPENDIX C

**IN THE CHANCERY COURT FOR SULLIVAN COUNTY**  
**AT BLOUNTVILLE, TENNESSEE**

IN THE MATTER OF:

No. \_\_\_\_\_

ESTATE OF: \_\_\_\_\_

**PETITION FOR FIDUCIARY'S FEE**

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

Respectfully submitted.

\_\_\_\_\_  
\_\_\_\_\_ for

the Estate of \_\_\_\_\_

APPENDIX C

IN THE CHANCERY COURT OF SULLIVAN COUNTY  
AT BLOUNTVILLE, TENNESSEE

IN RE: ESTATE OF \_\_\_\_\_

No. \_\_\_\_\_

AFFIDAVIT

STATE OF TENNESSEE  
COUNTY OF SULLIVAN

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

1. That he is (Trustee, Conservator, Administrator, Executor, Guardian) of the Estate of \_\_\_\_\_.

2. That the attached statement accurately itemizes the services rendered by him, the times expended, and the hourly rate charged. My hourly rate charged was \$\_\_\_\_\_ an hour during this period of time, OR the method of computing my fee is as follows: \_\_\_\_\_.

3. That he respectfully requests approval for reasonable compensation for all services rendered as detailed on the accompanying statement.

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

5. That the written consents of all interested parties who are adults and affected by these fees have been obtained and are attached hereto (strike out if not applicable).

SWORN TO on this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
STATE OF TENNESSEE

COUNTY OF SULLIVAN

SWORN TO AND SUBSCRIBED BEFORE ME, on this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

My commission expires:  
\_\_\_\_\_

**APPENDIX C**

IN THE MATTER OF:

	<u><b>STATEMENT OF ACTIVITIES AND TIME</b></u>		
DATE	ACTIVITY	TIME	
_____	_____	_____	
_____	_____	_____	
_____	_____	_____	
_____	_____	_____	
_____	_____	_____	
_____	_____	_____	
_____	_____	_____	
_____	_____	_____	
_____	_____	_____	
_____	_____	_____	
	Total Time	_____	
	Total Time X Hourly Rate of \$	_____	= _____
Expenses	_____		
	_____		
	_____		
		Sub Total	_____
		<b>Total</b>	\$ _____

APPENDIX C

**IN THE CHANCERY COURT FOR SULLIVAN COUNTY**  
**AT BLOUNTVILLE, TENNESSEE**

IN THE MATTER OF:

No. \_\_\_\_\_

ESTATE OF: \_\_\_\_\_

**PETITION FOR ATTORNEY'S FEES**

\_\_\_\_\_ of the law firm of \_\_\_\_\_, Attorney for the Estate of \_\_\_\_\_ respectfully petitions this Court to set a reasonable attorney's fee for legal services and expenses rendered to the Estate for the period of \_\_\_\_\_ to \_\_\_\_\_, and in the total amount of \$\_\_\_\_\_.

In support of this Petition an affidavit is submitted outlining and describing the legal services rendered and expenses incurred in representing the interests of the Estate.

Respectfully submitted.

\_\_\_\_\_  
Attorney for the Estate of \_\_\_\_\_

OF COUNSEL:

NAME:

ADDRESS:

PHONE NUMBER:

B P R No:

APPENDIX C

IN THE CHANCERY COURT OF SULLIVAN COUNTY  
AT BLOUNTVILLE, TENNESSEE

IN RE: ESTATE OF \_\_\_\_\_

No. \_\_\_\_\_

AFFIDAVIT

STATE OF TENNESSEE  
COUNTY OF SULLIVAN

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

1. That \_\_\_\_\_ represents the Estate of \_\_\_\_\_ and that I am an attorney of said firm.

2. That the attached statement accurately itemizes the services rendered by members of this firm, the times expended, and the hourly rate charged for each of us at the inception of this representation. My hourly rate charged was \$ \_\_\_\_\_ during this period of time and was the hourly rate normally charged by me for such legal services, and that other persons employed by the firm are billed at their normal and customary hourly rate.

3. This is a Final/Interim (strike one) petition for fee.

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

5. That the value of this gross probate estate is approximately \$ \_\_\_\_\_ and the value of the gross taxable estate is approximately \$ \_\_\_\_\_ (if applicable).

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

SWORN TO on this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Attorney Name STATE OF

TENNESSEE  
COUNTY OF SULLIVAN

SWORN TO AND SUBSCRIBED BEFORE ME, on this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

My commission expires:  
\_\_\_\_\_

**APPENDIX C**

IN THE MATTER OF: \_\_\_\_\_

**STATEMENT OF ACTIVITIES AND TIME**

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

Expenses \_\_\_\_\_ Total Time X Hourly Rate of \$ \_\_\_\_\_ = Total Time \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ Sub Total \_\_\_\_\_  
\_\_\_\_\_ **TOTAL \$** \_\_\_\_\_

## **RULE 20**

### **PROBATE FORMS**

The Clerk and Master may provide to *pro se* applicants the forms listed below in estates not exceeding \$50,000.00 net. This amount includes both real and personal property, including property that does not pass through probate. This rule does not apply to insolvent estates.

The forms to be provided are: Small Estate Affidavit, Petition, Petition to Record Will, Waiver of Bond, Order Opening Estate, Order of Administration, Letter Testamentary, Letter of Administration, Notice to Creditors, Notice to Commissioners, Affidavit of Notice to Creditors, Affidavit of Notice to Devisees of Testate Estate, Affidavit of Notice to Legatees of Intestate Estate, Inventory of Assets, Statement in Lieu of Final Accounting, Statement of Distributee in Lieu of Final Accounting, Order to Record Will Only and Closing Order.

# **RULE 21**

## **REQUESTS FOR ACCOMMODATIONS BY PERSONS WITH DISABILITIES**

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

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

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

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

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

1. Applications requesting accommodations pursuant to this rule may be presented ex parte in writing on a form approved by and provided by the court, or orally as the court may allow. Applications should be made at the designated Office of the Clerk where the proceeding will take place or to the judicial officer who will preside over the proceeding.
2. Applications for accommodations shall include a description of the accommodation sought along with a statement of the impairment that necessitates such accommodation. The court, in its discretion, may require the applicant to provide additional information

about the qualifying impairment.

3. Applications should be made as far in advance of the requested accommodation's implementation date as possible, and in any event, should be made no less than five court days prior to the requested implementation date. The court may, in its discretion, waive this requirement.
4. Upon request, the court shall place under seal the identity of the applicant as designated on the application form and all other identifying information provided to the court pursuant to the application.
5. An applicant may make an ex parte communication with the court; such communications shall deal only with the accommodations the applicant's disability requires and shall not deal in any manner with the subject matter or merits of the proceeding before the court.
6. In determining whether to grant an accommodation and what accommodation to grant, the court shall consider, but is not limited by, the provisions of the Americans with Disabilities Act of 1990 and related state and federal laws.
7. The court shall inform the applicant in writing of findings of fact and orders, as may be appropriate, that the request for accommodation is granted or denied, in whole or in part, and the nature of the accommodation (s) to be provided, if any.
8. An application may be denied only if the court finds that:
  - (a) The applicant has failed to satisfy the requirements of this rule; or
  - (b) The requested accommodation(s) would create an undue financial or administrative burden on the court; or
  - (c) The requested accommodations(s) would fundamentally alter the nature of the service, program or activity.

An applicant or any participant in the proceeding in which an accommodation has been denied or granted may seek review of a determination made by a presiding judge or any other judicial officer of a court within ten (10) days of the date of notice of denial or grant by filing a petition for extraordinary relief in a court of superior jurisdiction.

The accommodations by the court shall commence on the date indicated in the notice of accommodation and shall remain in effect for the period specified in the notice of accommodation. The court may grant accommodations for indefinite periods of time or for a particular matter or appearance.

Copies of this rule shall be provided to all Clerks serving the 2<sup>nd</sup> Judicial District, and shall be posted in the public areas of all court facilities.

## **RULE 22**

### **USE OF DEPOSITIONS FOR EVIDENCE AT TRIAL**

This rule applies to all jury trials and bench trials.

Counsel for each party shall review all depositions and remove all irrelevant and repetitive testimony and all discussions between counsel. Counsel shall then designate and exchange deposition testimony intended for use at trial, such designation to be made in writing by page and line number, and attempt to resolve all objections by agreement. Any objections not agreed to by counsel shall be made by filing a motion in limine with the court. Otherwise, any such objection is waived. All objections to designated testimony must be made in good faith and are subject to T.R.C.P. Rule 11 sanctions.

With respect to any witness who will appear at trial by stenographic or video deposition, at least 30 days before trial the party intending to offer the witness shall serve on opposing parties a written designation, by page and line number, of those portions of the deposition the offering party intends to use at trial for evidence. At least 25 days before trial, the opposing parties shall serve on the offering party any objections to the designated testimony (such objections to be made by motion in limine filed with the court) and a counter-designation, by page and line number, of any additional portions of the deposition the opposing parties intend to use at trial for evidence. At least 21 days before trial, the party offering the witness shall serve upon the opposing parties any objections to the designated testimony (such objections to be made by motion in limine filed with the court) and a written designation, by page and line number, of any additional portions of the deposition the offering party intends to use at trial for evidence. At least 14 days before trial, counsel shall consult, either personally or by telephone, and attempt to resolve all objections to any proposed deposition testimony.

For any objections to proposed deposition testimony not resolved by agreement, counsel filing any objection to proposed testimony shall have such motion heard at least 7 days before trial at which time the court will rule on the motion. Counsel shall edit any video deposition or stenographic deposition according to how the court rules on each objection so there will be a "clean" read of the deposition testimony at trial.

At least 2 days before trial, counsel intending to offer deposition testimony at trial must provide the judge in chambers a copy of the deposition as edited.

Deadlines may be waived only by court order.

Nothing in this rule shall prohibit the parties from stipulating in writing the testimony of any witness.

# RULE 23

## FOREIGN LANGUAGE INTERPRETERS

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

(B) Recognizing that appointment of a court interpreter is discretionary with the court, if the court finds a foreign language interpreter is necessary in a particular case, within five days of the order requiring an interpreter be appointed, counsel shall review the Roster of Certified and Registered Spoken Foreign Language Court Interpreters in Tennessee found on the AOC website at: <http://www.tsc.state.tn.us/geninfo/programs/Interpreters/rosterindex.htm>.

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

- (a) An interpreter shall be obtained according to the preference listed below:
  - 1. State certified court interpreter;
  - 2. State registered court interpreter;
  - 3. Non-credentialed court interpreter.
- (b) Once the interpreter has been obtained, counsel shall advise the court of the same and specific order of appointment shall be entered. Generally, the costs of interpreter services in civil cases shall be taxed as court costs pursuant to Tenn. R. Civ. 54.

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